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FOREWORD

This volume of legislation and related material is part of a three volume set of laws and related material frequently referred to by the Committees on International Relations of the House of Representatives and Foreign Relations of the Senate, amended to date and annotated to show pertinent history or cross references.

Volumes I and II contain legislation and related material and will be republished with amendments and additions at the end of each annual session of Congress. Volume III which contains treaties and related material will be revised only as necessary. Interim changes or additions involving treaties and related material will be included in volume II, during those years when volume III is not revised and republished.

This year the compilation was prepared by Larry Nowels of the Foreign Affairs and National Defense Division of the Congressional Research Service of the Library of Congress.

CLEMENT J. ZABLOCKI,
Chairman, Committee on International Relations
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Chairman, Committee on Foreign Relations

(III)

EXPLANATORY NOTE

All public laws included in this volume, except as noted below, are codified and in force through the end of the first session of the 95th Congress. The texts of the public laws in this volume are printed as they appear in the United States Statutes at Large rather than the United States Code. Amendments are incorporated into the text and distinguished by a footnote. The following public law remains in the volume although it has been repealed :

1. Tonkin Gulf Resolution (Vol. II)

All Executive orders are codified and in force as of January 1, 1978.

(v)

ABBREVIATIONS

Bevans -----	Treaties and Other International Agreements of the United States of America, 1776-1949, compiled under the direction of Charles I. Bevans.
CFR -----	Code of Federal Regulations.
EAS -----	Executive Agreement Series.
F.R.-----	Federal Register.
LNTS -----	League of Nations Treaty Series.
I Malloy, II Malloy-----	Treaties, Convention, International Acts, Protocols, and Agreements Between the United States of America and Other Powers, 1776-1909, compiled under the direction of the United States Senate by William M. Malloy.
Stat -----	United States Statutes at Large.
TIAS -----	Treaties and Other International Acts Series.
TS -----	Treaty Series.
UNTS -----	United Nations Treaty Series.
U.S.C -----	United States Code.
UST -----	United States Treaties and Other International Agreements.

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G. FOREIGN ECONOMIC POLICY: TARIFF AND TRADE LAWS

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1. Trade Act of 1974 and Related Documents

a. Trade Act of 1974, as amended

Partial text of Public Law 93-618 [H.R. 10710], 88 Stat. 1978, approved January 3, 1975 as amended by Public Law 94-455 [H.R. 10612], 90 Stat. 1520 at 1763, approved October 4, 1976¹

AN ACT To promote the development of an open, nondiscriminatory, and fair world economic system, to stimulate fair and free competition between the United States and foreign nations, to foster the economic growth of, and full employment in, the United States, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act, with the following table of contents, may be cited as the "Trade Act of 1974".

Sec. 2. Statement of Purposes.

The purposes of this Act are, through trade agreements affording mutual benefits—

(1) to foster the economic growth of and full employment in the United States and to strengthen economic relations between the United States and foreign countries through open and nondiscriminatory world trade;

(2) to harmonize, reduce, and eliminate barriers to trade on a basis which assures substantially equivalent competitive opportunities for the commerce of the United States;

(3) to establish fairness and equity in international trading relations, including reform of the General Agreement on Tariffs and Trade;

(4) to provide adequate procedures to safeguard American industry and labor against unfair or injurious import competition, and to assist industries, firm, workers, and communities to adjust to changes in international trade flows;

(5) to open up market opportunities for United States commerce in nonmarket economies; and

(6) to provide fair and reasonable access to products of less developed countries in the United States market.

TITLE I—NEGOTIATING AND OTHER AUTHORITY

CHAPTER 1—RATES OF DUTY AND OTHER TRADE BARRIERS

Sec. 101. Basic Authority for Trade Agreements.

(a) Whenever the President determines that any existing duties or other import restrictions of any foreign country or the United States are unduly burdening and restricting the foreign trade of the United

¹ 19 U.S.C. 2101-2487.

States and that the purposes of this Act will be promoted thereby, the President—

(1) during the 5-year period beginning on the date of the enactment of this Act, may enter into trade agreements with foreign countries or instrumentalities thereof; and

(2) may proclaim such modification or continuance of any existing duty, such continuance of existing duty-free or excise treatment, or such additional duties, as he determines to be required or appropriate to carry out any such trade agreement.

(b) (1) Except as provided in paragraph (2), no proclamation pursuant to subsection (a) (2) shall be made decreasing a rate of duty to a rate below 40 percent of the rate existing on January 1, 1975.

(2) Paragraph (1) shall not apply in the case of any article for which the rate of duty existing on January 1, 1975, is not more than 5 percent ad valorem.

(c) No proclamation shall be made pursuant to subsection (a) (2) increasing any rate of duty to, or imposing a rate above, the higher of the following:

(1) the rate which is 50 percent above the rate set forth in rate column numbered 2 of the Tariff Schedules of the United States as in effect on January 1, 1975, or

(2) the rate which is 20 percent ad valorem above the rate existing on January 1, 1975.

Sec. 102. Nontariff Barriers to and Other Distortions of Trade.

(a) The Congress finds that barriers to (and other distortions of) international trade are reducing the growth of foreign markets for the products of United States agriculture, industry, mining, and commerce, diminishing the intended mutual benefits of reciprocal trade concessions, adversely affecting the United States economy, preventing fair and equitable access to supplies, and preventing the development of open and nondiscriminatory trade among nations. The President is urged to take all appropriate and feasible steps within his power (including the full exercise of the rights of the United States under international agreements) to harmonize, reduce, or eliminate such barriers to (and other distortions of) international trade. The President is further urged to utilize the authority granted by subsection (b) to negotiate trade agreements with other countries and instrumentalities providing on a basis of mutuality for the harmonization, reduction, or elimination of such barriers to (and other distortions of) international trade. Nothing in this subsection shall be construed as prior approval of any legislation which may be necessary to implement an agreement concerning barriers to (or other distortions of) international trade.

(b) Whenever the President determines that any barriers to (or other distortions of) international trade of any foreign country or the United States unduly burden and restrict the foreign trade of the United States or adversely affect the United States economy, or that the imposition of such barriers is likely to result in such a burden, restriction, or effect, and that the purposes of this Act will be promoted thereby, the President, during the 5-year period beginning on the date of the enactment of this Act, may enter into trade agreements with foreign countries or instrumentalities providing for the har-

monization, reduction, or elimination of such barriers (or other distortions) or providing for the prohibition of or limitations on the imposition of such barriers (or other distortions).

(c) Before the President enters into any trade agreement under this section providing for the harmonization, reduction, or elimination of a barrier to (or other distortion of) international trade, he shall consult with the Committee on Ways and Means of the House of Representatives, the Committee on Finance of the Senate, and with each committee of the House and the Senate and each joint committee of the Congress which has jurisdiction over legislation involving subject matters which would be affected by such trade agreement. Such consultation shall include all matters relating to the implementation of such trade agreement as provided in subsections (d) and (e). If it is proposed to implement such trade agreement, together with one or more other trade agreements entered into under this section, in a single implementing bill, such consultation shall include the desirability and feasibility of such proposed implementation.

(d) Whenever the President enters into a trade agreement under this section providing for the harmonization, reduction, or elimination of a barrier to (or other distortion of) international trade, he shall submit such agreement, together with a draft of an implementing bill (described in section 151(b)) and a statement of any administrative action proposed to implement such agreement, to the Congress as provided in subsection (e), and such agreement shall enter into force with respect to the United States only if the provisions of subsection (e) are complied with and the implementing bill submitted by the President is enacted into law.

(e) Each trade agreement submitted to the Congress under this subsection shall enter into force with respect to the United States if (and only if)—

(1) the President, not less than 90 days before the day on which he enters into such trade agreement, notifies the House of Representatives and the Senate of his intention to enter into such an agreement, and promptly thereafter publishes notice of such intention in the Federal Register;

(2) after entering into the agreement, the President transmits a document to the House of Representatives and to the Senate containing a copy of such agreement together with—

(A) a draft of an implementing bill and a statement of any administrative action proposed to implement such agreement, and an explanation as to how the implementing bill and proposed administrative action change or affect existing law, and

(B) a statement of his reasons as to how the agreement serves the interest of United States commerce and as to why the implementing bill and proposed administrative action is required or appropriate to carry out the agreement; and

(3) the implementing bill is enacted into law.

(f) To insure that a foreign country or instrumentality which receives benefits under a trade agreement entered into under this section is subject to the obligations imposed by such agreement, the President may recommend to Congress in the implementing bill and statement of administrative action submitted with respect to such agreement that the benefits and obligations of such agreement apply

solely to the parties to such agreement, if such application is consistent with the terms of such agreement. The President may also recommend with respect to any such agreement that the benefits and obligations of such agreement not apply uniformly to all parties to such agreement, if such application is consistent with the terms of such agreement.

(g) For purposes of this section—

(1) the term “barrier” includes the American selling price basis of customs evaluation as defined in section 402 or 402a of the Tariff Act of 1930,² as appropriate;

(2) the term “distortion” includes a subsidy; and

(3) the term “international trade” includes trade in both goods and services.

Sec. 103. Overall Negotiating Objective.

The overall United States negotiating objective under sections 101 and 102 shall be to obtain more open and equitable market access and the harmonization, reduction, or elimination of devices which distort trade or commerce. To the maximum extent feasible, the harmonization, reduction, or elimination of agricultural trade barriers and distortions shall be undertaken in conjunction with the harmonization, reduction, or elimination of industrial trade barriers and distortions.

Sec. 104. Sector Negotiating Objective.

(a) A principal United States negotiating objective under sections 101 and 102 shall be to obtain, to the maximum extent feasible, with respect to appropriate product sectors of manufacturing, and with respect to the agricultural sector, competitive opportunities for United States exports to the developed countries of the world equivalent to the competitive opportunities afforded in United States markets to the importation of like or similar products, taking into account all barriers (including tariffs) to and other distortions of international trade affecting that sector.

(b) As a means of achieving the negotiating objective set forth in subsection (a), to the extent consistent with the objective of maximizing overall economic benefit to the United States (through maintaining and enlarging foreign markets for products of United States agriculture, industry, mining, and commerce, through the development of fair and equitable market opportunities, and through open and nondiscriminatory world trade), negotiations shall, to the extent feasible be conducted on the basis of appropriate product sectors of manufacturing.

(c) For the purposes of this section and section 135, the Special Representative for Trade Negotiations together with the Secretary of Commerce, Agriculture, or Labor, as appropriate, shall, after consultation with the Advisory Committee for Trade Negotiations established under section 135 and after consultation with interested private organizations, identify appropriate product sectors of manufacturing.

(d) If the President determines that competitive opportunities in one or more product sectors will be significantly affected by a trade agreement concluded under section 101 or 102, he shall submit to the Congress with each such agreement an analysis of the extent to which the negotiating objective set forth in subsection (a) is achieved by such agreement in each product sector or product sectors.

² 19 U.S.C. 1401a, 1402.

Sec. 105. Bilateral Trade Agreements.

If the President determines that bilateral trade agreements will more effectively promote the economic growth of, and full employment in, the United States, then, in such cases, a negotiating objective under section 101 and 102 shall be to enter into bilateral trade agreements. Each such trade agreement shall provide for mutually advantageous economic benefits.

Sec. 106. Agreements With Developing Countries.

A United States negotiating objective under sections 101 and 102 shall be to enter into trade agreements which promote the economic growth of both developing countries and the United States and the mutual expansion of market opportunities.

Sec. 107. International Safeguard Procedures.

(a) A principal United States negotiating objective under section 102 shall be to obtain internationally agreed upon rules and procedures, in the context of the harmonization, reduction, or elimination of barriers to, and other distortions of, international trade, which permit the use of temporary measures to ease adjustment to changes occurring in competitive conditions in the domestic markets of the parties to an agreement resulting from such negotiations due to the expansion of international trade.

(b) Any agreement entered into under section 102 may include provisions establishing procedures for—

- (1) notification of affected exporting countries,
- (2) international consultations,
- (3) international review of changes in trade flows,
- (4) making adjustments in trade flows as the result of such changes, and
- (5) international mediation.

Such agreements may also include provisions which—

- (A) exclude, under specified conditions, the parties thereto from compensation obligations and retaliation, and
- (B) permit domestic public procedures through which interested parties have the right to participate.

Sec. 108. Access Supplies.

(a) A principal United States negotiating objective under section 102 shall be to enter into trade agreements with foreign countries and instrumentalities to assure the United States of fair and equitable access at reasonable prices to supplies of articles of commerce which are important to the economic requirements of the United States and for which the United States does not have, or cannot easily develop, the necessary domestic productive capacity to supply its own requirements.

(b) Any agreement entered into under section 102 may include provisions which—

- (1) assure to the United States the continued availability of important articles at reasonable prices, and
- (2) provide reciprocal concessions or comparable trade obligations, or both, by the United States.

Sec. 109. Staging Requirements and Rounding Authority.

(a) Except as otherwise provided in this section, the aggregate reduction in the rate of duty on any article which is in effect on any

day pursuant to a trade agreement under section 101 shall not exceed the aggregate reduction which would have been in effect on such day if—

(1) a reduction of 3 percent ad valorem or a reduction of one-tenth of the total reduction, whichever is greater, had taken effect on the effective date of the first reduction proclaimed pursuant to section 101(a)(2) to carry out such agreement with respect to such article, and

(2) a reduction equal to the amount applicable under paragraph (1) had taken effect at 1-year intervals after the effective date of such first reduction.

This subsection shall not apply in any case where the total reduction in the rate of duty does not exceed 10 percent of the rate before the reduction.

(b) If the President determines that such action will simplify the computation of the amount of duty imposed with respect to an article, he may exceed the limitation provided by section 101(b) or subsection (a) of this section by not more than whichever of the following is lesser:

(1) the difference between the limitation and the next lower whole number, or

(2) one-half of 1 percent ad valorem.

(c) (1) No reduction in the rate of duty on any article pursuant to a trade agreement under section 101 shall take effect more than 10 years after the effective date of the first reduction proclaimed to carry out such trade agreement with respect to such article.

(2) If any part of a reduction takes effect, then any time thereafter during which such part of the reduction is not in effect by reason of legislation of the United States or action thereunder, the effect of which is to maintain or increase the rate of duty on an article, shall be excluded in determining—

(A) the 1-year intervals referred to in subsection (a)(2), and

(B) the expiration of the 10-year period referred to in paragraph (1) of this subsection.

CHAPTER 2—OTHER AUTHORITY

Sec. 121. Steps To Be Taken Toward GATT Revision; Authorization of Appropriations for GATT.

(a) The President shall, as soon as practicable, take such action as may be necessary to bring trade agreements heretofore entered into, and the application thereof, into conformity with principles promoting the development of an open, nondiscriminatory, and fair world economic system. The action and principles referred to in the preceding sentence include, but are not limited to, the following—

(1) the revision of decisionmaking procedures in the General Agreement on Tariffs and Trade³ (hereinafter in this subsection referred to as “GATT”) to more nearly reflect the balance of economic interests,

(2) the revision of article XIX of the GATT into a truly international safeguard procedure which takes into account all forms of import restraints countries use in response to injurious competition or threat of such competition,

³ See Sec. G, Vol. III for text.

(3) the extension of GATT articles to conditions of trade not presently covered in order to move toward more fair trade practices,

(4) the adoption of international fair labor standards and of public petition and confrontation procedures in the GATT,

(5) the revision of GATT articles with respect to the treatment of border adjustments for internal taxes to redress the disadvantage to countries relying primarily on direct rather than indirect taxes for revenue needs,

(6) the revision of the balance-of-payments provision in the GATT articles so as to recognize import surcharges as the preferred means by which industrial countries may handle balance-of-payments deficits insofar as import restraint measures are required,

(7) the improvement and strengthening of the provisions of GATT and other international agreements governing access to supplies of food, raw materials, and manufactured or semi-manufactured products, including rules and procedures governing the imposition of export controls, the denial of fair and equitable access to such supplies, and effective consultative procedures on problems of supply shortages,

(8) the extension of the provisions of GATT or other international agreements to authorize multilateral procedures by contracting parties with respect to member or nonmember countries which deny fair and equitable access to supplies of food, raw materials, and manufactured or semi-manufactured products, and thereby substantially injure the international community,

(9) any revisions necessary to establish procedures for regular consultation among countries and instrumentalities with respect to international trade and procedures to adjudicate commercial disputes among such countries or instrumentalities,

(10) any revisions necessary to apply the principles of reciprocity and nondiscrimination, including the elimination of special preferences and reverse preferences, to all aspects of international trade,

(11) any revisions necessary to define the forms of subsidy to industries producing products for export and the forms of subsidy to attract foreign investment which are consistent with an open, nondiscriminatory, and fair system of international trade, and

(12) consistent with the provisions of section 107, any revisions necessary to establish within the GATT an international agreements on articles (including footwear), including the creation of regular and institutionalized mechanisms for the settlement of disputes, and of a surveillance body to monitor all international shipments in such articles.

(b) The President shall, to the extent feasible, enter into agreements with foreign countries or instrumentalities to establish the principles described in subsection (a) with respect to international trade between the United States and such countries or instrumentalities.

(c) If the President enters into a trade agreement which establishes rules or procedures, including those set forth in subsection (a), pro-

moting the development of an open, nondiscriminatory, and fair world economic system and if the implementation of such agreement will change any provision of Federal law (including a material change in an administrative rule), such agreement shall take effect with respect to the United States only if the appropriate implementing legislation is enacted by the Congress unless implementation of such agreement is effected pursuant to authority delegated by Congress. Such trade agreement may be submitted to the Congress for approval in accordance with the procedures of section 151. Nothing in this section shall be construed as prior approval of any legislation necessary to implement a trade agreement entered into under this section.

(d) There are authorized to be appropriated annually such sums as may be necessary for the payment by the United States of its share of the expenses of the Contracting Parties to the General Agreement on Tariffs and Trade. This authorization does not imply approval or disapproval by the Congress of all articles of the General Agreement on Tariffs and Trade.

Sec. 122. Balance-of-Payments Authority.

(a) Whenever fundamental international payments problems require special import measures to restrict imports—

(1) to deal with large and serious United States balance-of-payments deficits,

(2) to prevent an imminent and significant depreciation of the dollar in foreign exchange markets, or

(3) to cooperate with other countries in correcting an international balance-of-payments disequilibrium,
the President shall proclaim, for a period not exceeding 150 days (unless such period is extended by Act of Congress)—

(A) a temporary import surcharge, not to exceed 15 percent ad valorem, in the form of duties (in addition to those already imposed, if any) on articles imported into the United States;

(B) temporary limitations through the use of quotas on the importation of articles into the United States; or

(C) both a temporary import surcharge described in subparagraph (A) and temporary limitations described in subparagraph (B).

The authority delegated under subparagraph (B) (and so much of subparagraph (C) as relates to subparagraph (B)) may be exercised (i) only if international trade or monetary agreements to which the United States is a party permit the imposition of quotas as a balance-of-payments measure, and (ii) only to the extent that the fundamental imbalance cannot be dealt with effectively by a surcharge proclaimed pursuant to subparagraph (A) or (C). Any temporary import surcharge proclaimed pursuant to subparagraph (A) or (C) shall be treated as a regular customs duty.

(b) If the President determines that the imposition of import restrictions under subsection (a) will be contrary to the national interest of the United States, then he may refrain from proclaiming such restrictions and he shall—

(1) immediately inform Congress of his determination, and

(2) immediately convene the group of congressional official advisers designated under section 161(a) and consult with them as to the reasons for such determination.

(c) Whenever the President determines that fundamental international payments problems require special import measures to increase imports—

(1) to deal with large and persistent United States balance-of-trade surpluses, as determined on the basis of the cost-insurance-freight value of imports as reported by the Bureau of the Census, or

(2) to prevent significant appreciation of the dollar in foreign exchange markets.

the President is authorized to proclaim, for a period of 150 days (unless such period is extended by Act of Congress)—

(A) a temporary reduction (of not more than 5 percent ad valorem) in the rate of duty on any article; and

(B) a temporary increase in the value or quantity of articles which may be imported under any import restriction, or a temporary suspension of any import restriction.

Import liberalizing actions proclaimed pursuant to this subsection shall be of broad and uniform application with respect to product coverage except that the President shall not proclaim measures under this subsection with respect to those articles where in his judgment such action will cause or contribute to material injury to firms or workers in any domestic industry, including agriculture, mining, fishing, or commerce, or to impairment of the national security, or will otherwise be contrary to the national interest.

(d)(1) Import restricting actions proclaimed pursuant to subsection (a) shall be applied consistently with the principle of nondiscriminatory treatment. In addition, any quota proclaimed pursuant to subparagraph (B) of subsection (a) shall be applied on a basis which aims at a distribution of trade with the United States approaching as closely as possible that which various foreign countries might have expected to obtain in the absence of such restrictions.

(2) Notwithstanding paragraph (1), if the President determines that the purposes of this section will best be served by action against one or more countries having large or persistent balance-of-payments surpluses, he may exempt all other countries from such action.

(3) After such time when there enters into force for the United States new rules regarding the application of surcharges as part of a reform of internationally agreed balance-of-payments adjustments procedures, the exemption authority contained in paragraph (2) shall be applied consistently with such new international rules.

(4) It is the sense of Congress that the President seek modifications in international agreements aimed at allowing the use of surcharges in place of quantitative restrictions (and providing rules to govern the use of such surcharges) as a balance-of-payments adjustment measure within the context of arrangements for an equitable sharing of balance-of-payments adjustment responsibility among deficit and surplus countries.

(e) Import restricting actions proclaimed pursuant to subsection (a) shall be of broad and uniform application with respect to product coverage except where the President determines, consistently with the purposes of this section, that certain articles should not be subject to import restricting actions because of the needs of the United States economy. Such exceptions shall be limited to the unavailability of domestic supply at reasonable prices, the necessary importation of

raw materials, avoiding serious dislocations in the supply of imported goods, and other similar factors. In addition, uniform exceptions may be made where import restricting actions will be unnecessary or ineffective in carrying out the purposes of this section, such as with respect to articles already subject to import restrictions, goods in transit, or goods under binding contract. Neither the authorization of import restricting actions nor the determination of exceptions with respect to product coverage shall be made for the purpose of protecting individual domestic industries from import competition.

(f) Any quantitative limitation proclaimed pursuant to subparagraph (B) or (C) of subsection (a) on the quantity or value, or both, of an article—

(1) shall permit the importation of a quantity or value which is not less than the quantity or value of such article imported into the United States from the foreign countries to which such limitation applies during the most recent period which the President determines is representative of imports of such article, and

(2) shall take into account any increase since the end of such representative period in domestic consumption of such article and like or similar articles of domestic manufacture or production.

(g) The President may at any time, consistent with the provisions of this section, suspend, modify, or terminate, in whole or in part, any proclamation under this section either during the initial 150-day period of effectiveness or as extended by subsequent Act of Congress.

(h) No provision of law authorizing the termination of tariff concessions shall be used to impose a surcharge on imports into the United States.

Sec. 123. Compensation Authority.

(a) Whenever any action has been taken under section 203 to increase or impose any duty or other import restriction, the President—

(1) may enter into trade agreements with foreign countries or instrumentalities for the purpose of granting new concessions as compensation in order to maintain the general level of reciprocal and mutually advantageous concessions; and

(2) may proclaim such modification or continuance of any existing duty, or such continuance of existing duty-free or excise treatment, as he determines to be required or appropriate to carry out any such agreement.

(b)(1) No proclamation shall be made pursuant to subsection (a) decreasing any rate of duty to a rate which is less than 70 percent of the existing rate of duty.

(2) Where the rate of duty in effect at any time is an intermediate stage under section 109, the proclamation made pursuant to subsection (a) may provide for the reduction of each rate of duty at each such stage proclaimed under section 101 by not more than 30 percent of such rate of duty, and may provide for a final rate of duty which is not less than 70 percent of the rate of duty proclaimed as the final stage under section 101.

(3) If the President determines that such action will simplify the computation of the amount of duty imposed with a respect to an article

he may exceed the limitations provided by paragraphs (1) and (2) of this subsection by not more than the lesser of—

(A) the difference between such limitation and the next lower whole number, or

(B) one-half of 1 percent *ad valorem*.

(4) Any concessions granted under subsection (a)(1) shall be reduced and terminated according to substantially the same time schedule for reduction applicable to the relevant import relief under section 203(h).

(c) Before entering into any trade agreement under this section with any foreign country or instrumentality, the President shall consider whether such country or instrumentality has violated trade concessions of benefit to the United States and such violation has not been adequately offset by the action of the United States or by such country or instrumentality.

(d) Notwithstanding the provisions of subsection (a), the authority delegated under section 101 shall be used for the purpose of granting new concessions as compensation within the meaning of this section until such authority terminates.

Sec. 124. Two-Year Residual Authority to Negotiate Duties.

(a) Whenever the President determines that any existing duties or other import restrictions of any foreign country or the United States are unduly burdening and restricting the foreign trade of the United States and that the purposes of this Act will be promoted thereby, the President—

(1) may enter into trade agreements with foreign countries or instrumentalities thereof, and

(2) may proclaim such modification or continuance of any existing duty, such continuance of existing duty-free or excise treatment, or such additional duties, as he determines to be required or appropriate to carry out any such trade agreement.

(b) Agreements entered into under this section in any 1-year period shall not provide for the reduction of duties, or the continuance of duty-free or excise treatment, for articles which account for more than 2 percent of the value of the United States imports for the most recent 12-month period for which import statistics are available.

(c) (1) No proclamation shall be made pursuant to subsection (a) decreasing any rate of duty to a rate which is less than 80 percent of the existing rate of duty.

(2) No proclamation shall be made pursuant to subsection (a) decreasing or increasing any rate of duty to a rate which is lower or higher than the corresponding rate which would have resulted if the maximum authority granted by section 101 with respect to such article had been exercised.

(3) Where the rate of duty in effect at any time is an intermediate stage under section 109, the proclamation made pursuant to subsection (a) may provide for the reduction of each rate of duty at each such stage proclaimed under section 101 by not more than 20 percent of such rate of duty, and, subject to the limitation in paragraph (2), may provide for a final rate of duty which is not less than 80 percent of the rate of duty proclaimed as the final stage under section 101.

(4) If the President determines that such action will simplify the computation of the amount of duty imposed with respect to an

article, he may exceed the limitations provided by paragraphs (1) and (2) of this subsection by not more than the lesser of—

(A) the difference between such limitation and the next lower whole number, or

(B) one-half of 1 percent ad valorem.

(d) Agreements may be entered into under this section only during the 2-year period which immediately follows the close of the period during which agreements may be entered into under section 101.

Sec. 125. Termination and Withdrawal Authority.

(a) Every trade agreement entered into under this Act shall be subject to termination, in whole or in part, or withdrawal, upon due notice, at the end of a period specified in the agreement. Such period shall be not more than 3 years from the date on which the agreement becomes effective. If the agreement is not terminated or withdrawn from at the end of the period so specified, it shall be subject to termination or withdrawal thereafter upon not more than 6 months' notice.

(b) The President may at any time terminate in whole or in part, any proclamation made under this Act.

(c) Whenever the United States, acting in pursuance of any of its rights or obligations under any trade agreement entered into pursuant to this Act, section 201 of the Trade Expansion Act of 1962⁴ or section 350 of the Tariff Act of 1930,⁵ withdraws, suspends, or modifies any obligation with respect to the trade of any foreign country or instrumentality thereof, the President is authorized to proclaim increased duties or other import restrictions, to the extent, at such times, and for such periods as he deems necessary or appropriate, in order to exercise the rights or fulfill the obligations of the United States. No proclamation shall be made under this subsection increasing any existing duty to a rate more than 50 percent above the rate set forth in rate column numbered 2 of the Tariff Schedules of the United States,⁶ as in effect on January 1, 1975, or 20 percent ad valorem above the rate existing on January 1, 1975, whichever is higher.

(d) Whenever any foreign country or instrumentality withdraws, suspends, or modifies the application of trade agreement obligations of benefit to the United States without granting adequate compensation therefor, the President, in pursuance of rights granted to the United States under any trade agreement and to the extent necessary to protect United States economic interests (including United States balance of payments), may—

(1) withdraw, suspend, or modify the application of substantially equivalent trade agreement obligations of benefit to such foreign country or instrumentality, and

(2) proclaim under subsection (c) such increased duties or other import restrictions as are appropriate to effect adequate compensation from such foreign country or instrumentality.

(e) Duties or other import restrictions required or appropriate to carry out any trade agreement entered into pursuant to this Act, section 201 of the Trade Expansion Act of 1962,⁴ or section 350 of the Tariff Act of 1930⁵ shall not be affected by any termination, in whole or in part, of such agreement or by the withdrawal of the United

⁴ 19 U.S.C. 1821. See p. 95 for text.

⁵ 19 U.S.C. 1351.

⁶ 19 U.S.C. 1202.

States for such agreement and shall remain in effect after the date of such termination or withdrawal for 1 year, unless the President by proclamation provides that such rates shall be restored to the level at which they would be but for the agreement. Within 60 days after the date of any such termination or withdrawal, the President shall transmit to the Congress his recommendations as to the appropriate rates of duty for all articles which were affected by the termination or withdrawal or would have been so affected but for the preceding sentence.

(f) Before taking any action pursuant to subsection (b), (c), or (d), the President shall provide for a public hearing during the course of which interested persons shall be given a reasonable opportunity to be present, to produce evidence, and to be heard, unless he determines that such prior hearings will be contrary to the national interest because of the need for expeditious action, in which case he shall provide for a public hearing promptly after such action.

Sec. 126. Reciprocal Nondiscriminatory Treatment.

(a) Except as otherwise provided in this Act or in any other provision of law, any duty or other import restriction or duty-free treatment proclaimed in carrying out any trade agreement under this title shall apply to products of all foreign countries, whether imported directly or indirectly.

(b) The President shall determine, after the conclusion of all negotiations entered into under this Act or at the end of the 5-year period beginning on the date of enactment of this Act, whichever is earlier, whether any major industrial country has failed to make concessions under trade agreements entered into under this Act which provide competitive opportunities for the commerce of the United States in such country substantially equivalent to the competitive opportunities, provided by concessions made by the United States under trade agreements entered into under this Act, for the commerce of such country in the United States.

(c) If the President determines under subsection (b) that a major industrial country has not made concessions under trade agreements entered into under this Act which provide substantially equivalent competitive opportunities for the commerce of the United States, he shall, either generally with respect to such country or by article produced by such country, in order to restore equivalence of competitive opportunities, recommend to the Congress—

(1) legislation providing for the termination or denial of the benefits of concessions of trade agreements entered into under this Act made with respect to rates of duty or other import restrictions by the United States; and

(2) that any legislation necessary to carry out any trade agreement under section 102 shall not apply to such country.

(d) For purposes of this section, "major industrial country" means Canada, the European Economic Community, the individual member countries of such Community, Japan, and any other foreign country designated by the President for purposes of this subsection.

Sec. 127. Reservation of Articles for National Security or Other Reasons.

(a) No proclamation shall be made pursuant to the provisions of this Act reducing or eliminating the duty or other import restriction

on any article if the President determines that such reduction or elimination would threaten to impair the national security.

(b) While there is in effect with respect to any article any action taken under section 203 of this Act, or section 232 or 351 of the Trade Expansion Act of 1962 (19 U.S.C. 1862 or 1981), the President shall reserve such article from negotiations under this title (and from any action under section 122(c)) contemplating reduction or elimination of—

- (A) any duty on such article,
- (B) any import restriction imposed under such section, or
- (C) any other import restriction, the removal of which will be likely to undermine the effect of the import restrictions referred to in subparagraph (B).

In addition, the President shall also so reserve any other article which he determines to be appropriate, taking into consideration information and advice available pursuant to and with respect to the matters covered by sections 131, 132, and 133, where applicable.

(c)⁷ The President shall submit to the Congress an annual report on section 232 of the Trade Expansion Act of 1962.⁸ Within 60 days after he takes any action under such section 232, the President shall report to the Congress the action taken and the reasons therefor.

(d) [Amends sec. 232 of the Trade Expansion Act of 1962.⁸]

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CHAPTER 3—HEARINGS AND ADVICE CONCERNING NEGOTIATIONS

Sec. 131. International Trade Commission Advice.

(a) In connection with any proposed trade agreement under chapter 1 or section 123 or 124, the President shall from time to time publish and furnish the International Trade Commission (hereafter in this section referred to as the "Commission") with lists of articles which may be considered for modification or continuance of United States duties, continuance of United States duty-free or excise treatment, or additional duties. In the case of any article with respect to which consideration may be given to reducing or increasing the rate of duty, the list shall specify the provision of this title pursuant to which such consideration may be given.

(b) Within 6 months after receipt of such a list or, in the case of a list submitted in connection with a trade agreement authorized under section 123, within 90 days after receipt of such list, the Commission shall advise the President with respect to each article of its judgment as to the probable economic effect of modifications of duties on industries producing like or directly competitive articles and on consumers, so as to assist the President in making an informed judgment as to the impact which might be caused by such modifications on United States manufacturing, agriculture, mining, fishing, labor, and consumers. Such advice may include in the case of any article the advice of the Commission as to whether any reduction in the rate of duty should take place over a longer period than the minimum periods provided by section 109(a).

⁷ 19 U.S.C. 1863.

⁸ 19 U.S.C. 1962. See p. 96 for text.

(c) In addition, in order to assist the President in his determination of whether to enter into any agreement under section 102, the Commission shall make such investigations and reports as may be requested by the President, including, where feasible, advice as to the probable economic effects of modifications of any barrier to (or other distortion of) international trade on domestic industries and purchasers and on prices and quantities of articles in the United States.

(d) In preparing its advice to the President under this section, the Commission shall, to the extent practicable—

(1) investigate conditions, causes, and effects relating to competition between the foreign industries producing the articles in question and the domestic industries producing the like or directly competitive articles;

(2) analyze the production, trade, and consumption of each like or directly competitive article, taking into consideration employment, profit levels, and use of productive facilities with respect to the domestic industries concerned, and such other economic factors in such industries as it considers relevant, including prices, wages, sales, inventories, patterns of demand, capital investment, obsolescence of equipment, and diversification of production;

(3) describe the probable nature and extent of any significant change in employment, profit levels, and use of productive facilities, and such other conditions as it deems relevant in the domestic industries concerned which it believes such modifications would cause; and

(4) make special studies (including studies of real wages paid in foreign supplying countries), whenever deemed to be warranted, of particular proposed modifications affecting United States manufacturing, agriculture, mining, fishing, labor, and consumers, utilizing to the fullest extent practicable United States Government facilities abroad and appropriate personnel of the United States.

(e) In preparing its advice to the President under this section, the Commission shall, after reasonable notice, hold public hearings.

Sec. 132. Advice from Departments and Other Sources.

Before any trade agreement is entered into under chapter 1 or section 123 or 124, the President shall seek information and advice with respect to such agreement from the Departments of Agriculture, Commerce, Defense, Interior, Labor, State and the Treasury, from the Special Representative for Trade Negotiations, and from such other sources as he may deem appropriate.

Sec. 133. Public Hearings.

(a) In connection with any proposed trade agreement under chapter 1 or section 123 or 124, the President shall afford an opportunity for any interested person to present his views concerning any article on a list published pursuant to section 131, any article which should be so listed, any concession which should be sought by the United States, or any other matter relevant to such proposed trade agreement. For this purpose, the President shall designate an agency or an interagency committee which shall, after reasonable notice, hold public hearings and prescribe regulations governing the conduct of such hearings.

(b) The organization holding such hearings shall furnish the President with a summary thereof.

Sec. 134. Prerequisites for Offers.

In any negotiations seeking an agreement under chapter 1 or section 123 or 124, the President may make an offer for the modification or continuance of any United States duty, import restrictions, or barriers to (or other distortions of) international trade, the continuance of United States duty-free or excise treatment, or the imposition of additional duties, import restriction, or other barrier to (or other distortion of) international trade, with respect to any article only after he has received a summary of the hearings at which an opportunity to be heard with respect to such article has been afforded under section 133. In addition, the President may make an offer for the modification or continuance of any United States duty, the continuance of United States duty-free or excise treatment, or the imposition of additional duties, with respect to any article included in a list published and furnished under section 131(a), only after he has received advice concerning such article from the International Trade Commission under section 131(b), or after the expiration of the 6-month or 90-day period provided for in that section, as appropriate, whichever first occurs.

Sec. 135. Advice from Private Sector.

(a) The President, in accordance with the provisions of this section, shall seek information and advice from representative elements of the private sector with respect to negotiating objectives and bargaining positions before entering into a trade agreement referred to in section 101 or 102.

(b)(1) The President shall establish an Advisory Committee for Trade Negotiations to provide overall policy advice on any trade agreement referred to in section 101 or 102. The Committee shall be composed of not more than 45 individuals, and shall include representatives of government, labor, industry, agriculture, small business, service industries, retailers, consumer interests, and the general public.

(2) The Committee shall meet at the call of the Special Representative for Trade Negotiations, who shall be the Chairman. The Committee shall terminate upon submission of its report required under subsection (e)(2). Members of the Committee shall be appointed by the President for a period of 2 years and may be reappointed for one or more additional periods.

(3) The Special Representative for Trade Negotiations shall make available to the Committee such staff, information, personnel, and administrative services and assistance as it may reasonably require to carry out its activities.

(c)(1) The President may, on his own initiative or at the request of organizations representing industry, labor, or agriculture, establish general policy advisory committees for industry, labor, and agriculture, respectively, to provide general policy advice on any trade agreement referred to in section 101 or 102. Such committees shall, insofar as practicable, be representative of all industry, labor, or agricultural interests (including small business interests), respectively, and shall be organized by the President acting through the Special Representative for Trade Negotiations and the Secretaries of Commerce, Labor, and Agriculture, as appropriate.

(2) The President shall, on his own initiative or at the request of organizations in a particular sector, establish such industry, labor, or agricultural sector advisory committees as he determines to be necessary for any trade negotiations referred to in section 101 or 102. Such committees shall, so far as practicable, be representative of all industry, labor, or agricultural interests including small business interests in the sector concerned. In organizing such committees the President, acting through the Special Representative for Trade Negotiations and the Secretary of Commerce, Labor, or Agriculture, as appropriate, (A) shall consult with interested private organizations, and (B) shall take into account such factors as patterns of actual and potential competition between United States industry and agriculture and foreign enterprise in international trade, the character of the nontariff barriers and other distortions affecting such competition, the necessity for reasonable limits on the number of such product sector advisory committees, the necessity that each committee be reasonably limited in size, and that the product lines covered by each committee be reasonably related.

(d) Committees established pursuant to subsection (c) shall meet at the call of the Special Representative for Trade Negotiations, before and during any trade negotiations, to provide the following:

- (1) policy advice on negotiations;
- (2) technical advice and information on negotiations on particular products both domestic and foreign; and
- (3) advice on other factors relevant to positions of the United States in trade negotiations.

(e)(1) The Advisory Committee for Trade Negotiations, each appropriate policy advisory committee, and each sector advisory committee, if the sector which such committee represents is affected, shall meet at the conclusion of negotiations for each trade agreement entered into under this Act, to provide to the President, to Congress, and to the Special Representative for Trade Negotiations a report on such agreement. The report of the Advisory Committee for Trade Negotiations and each appropriate policy advisory committee shall include an advisory opinion as to whether and to what extent the agreement promotes the economic interests of the United States and the report of the appropriate sector committee shall include an advisory opinion as to whether the agreement provides for equity and reciprocity within the sector.

(2) The Advisory Committee for Trade Negotiations, each policy advisory committee, and each sector advisory committee shall issue a report to the Congress as soon as is practical after the end of the period which ends 5 years after the date of enactment of this Act. The report of the Advisory Committee for Trade Negotiations and each policy advisory committee shall include an advisory opinion as to whether and to what extent trade agreements entered into under this Act, taken as a whole, serve the economic interests of the United States. The report of each sector advisory committee shall include an advisory opinion on the degree to which trade agreements entered into under this Act which affect the sector represented by each such committee, taken as a whole, provide for equity and reciprocity within that sector.

(f) The provisions of the Federal Advisory Committee Act (Public Law 92-463)^o shall apply—

^o 5 U.S.C. App. 1.

(1) to the Advisory Committee for Trade Negotiations established pursuant to subsection (b) ; and

(2) to all other advisory committees which may be established pursuant to subsection (c) ; except that the meetings of advisory groups established under subsection (c) shall be exempt from the requirements of subsections (a) and (b) of section 10 and section 11 of the Federal Advisory Committee Act (relating to open meetings, public notice, public participation, and public availability of documents), whenever and to the extent it is determined by the President or his designee that such meetings will be concerned with matters the disclosure of which would seriously compromise the Government's negotiating objectives or bargaining positions on the negotiation of any trade agreement.

(g)(1)(A) Trade secrets and commercial or financial information which is privileged or confidential, submitted in confidence by the private sector to officers or employees of the United States in connection with trade negotiations, shall not be disclosed to any person other than to—

(i) officers and employees of the United States designated by the Special Representative for Trade Negotiations, and

(ii) members of the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate who are accredited as official advisers under section 161

(a) or are designated by the chairman of either such committee under section 161(b)(2), and members of the staff of either such committee designated by the chairman under section 161(b)(2), for use in connection with negotiation of a trade agreement referred to in section 101 or 102.

(B) Information, other than that described in paragraph (A), and advice submitted in confidence by the private sector to officers or employees of the United States, to the Advisory Committee for Trade Negotiations or to any advisory committee established under subsection (c), in connection with trade negotiations, shall not be disclosed to any person other than—

(i) the individuals described in subparagraph (A), and

(ii) the appropriate advisory committees established under this section.

(2) Information submitted in confidence by officers or employees of the United States to the Advisory Committee for Trade Negotiations, or to any advisory committee established under subsection (c), shall not be disclosed other than in accordance with rules issued by the Special Representative for Trade Negotiations and the Secretary of Commerce, Labor or Agriculture, as appropriate, after consultation with the relevant advisory committees established under subsection (c). Such rules shall define the categories of information which require restricted or confidential handling by such committee considering the extent to which public disclosure of such information can reasonably be expected to prejudice United States negotiating objectives. Such rules shall, to the maximum extent feasible, permit meaningful consultations by advisory committee members with persons affected by proposed trade agreements.

(h) The Special Representative for Trade Negotiations, and the Secretary of Commerce, Labor, or Agriculture, as appropriate, shall

provide such staff, information, personnel, and administrative services and assistance to advisory committees established pursuant to subsection (c) as such committees may reasonably require to carry out their activities.

(i) It shall be the responsibility of the Special Representative for Trade Negotiations, in conjunction with the Secretary of Commerce, Labor, or Agriculture, as appropriate, to adopt procedures for consultation with and obtaining information and advice from the advisory committees established pursuant to subsection (c) on a continuing and timely basis, both during preparation for negotiations and actual negotiations. Such consultation shall include the provision of information to each advisory committee as to (1) significant issues and developments arising in preparation for or in the course of such negotiations, and (2) overall negotiating objectives and positions of the United States and other parties to the negotiations. The Special Representative for Trade Negotiations shall not be bound by the advice or recommendations of such advisory committees but the Special Representative for Trade Negotiations shall inform the advisory committees of failures to accept such advice or recommendations, and the President shall include in his statement to the Congress, required by section 163, a report by the Special Representative for Trade Negotiations on consultation with such committees, issues involved in such consultation, and the reasons for not accepting advice or recommendations.

(j) In addition to any advisory committee established pursuant to this section, the President shall provide adequate, timely and continuing opportunity for the submission on an informal and, if such information is submitted under the provisions of subsection (g), confidential basis by private organizations or groups, representing labor, industry, agriculture, small business, service industries, consumer interests, and others, of statistics, data, and other trade information, as well as policy recommendations, pertinent to the negotiation of any trade agreement referred to in section 101 or 102.

(k) Nothing contained in this section shall be construed to authorize or permit any individual to participate directly in any negotiation of any trade agreement referred to in section 101 or 102.

CHAPTER 4—OFFICE OF THE SPECIAL REPRESENTATIVE FOR TRADE NEGOTIATIONS

Sec. 141. Office of the Special Representative for Trade Negotiations.

(a) There is established within the Executive Office of the President the Office of the Special Representative for Trade Negotiations (hereinafter in this section referred to as the "Office").

(b)(1) The Office shall be headed by the Special Representative for Trade Negotiations who shall be appointed by the President, by and with the advice and consent of the Senate. As an exercise of the rulemaking power of the Senate, any nomination of the Special Representative for Trade Negotiations submitted to the Senate for confirmation, and referred to a committee, shall be referred to the Committee on Finance. The Special Representative for Trade Negotiations shall hold office at the pleasure of the President, shall be

entitled to receive the same allowances as a chief of mission, and shall have the rank of Ambassador Extraordinary and Plenipotentiary.

(2) There shall be in the Office two Deputy Special Representatives for Trade Negotiations who shall be appointed by the President, by and with the advice and consent of the Senate. As an exercise of the rulemaking power of the Senate, any nomination of a Deputy Special Representative submitted to the Senate for confirmation, and referred to a committee, shall be referred to the Committee on Finance. Each Deputy Special Representative for Trade Negotiations shall hold office at the pleasure of the President and shall have the rank of Ambassador.

(3) (A) Section 5312 of title 5, United States Code, is amended by adding at the end thereof the following new paragraph:

“(13) Special Representative for Trade Negotiations.”

(B) Section 5314 of such title is amended by adding at the end thereof the following new paragraph:

“(60) Deputy Special Representatives for Trade Negotiations (2).”

(c) (1) The Special Representative for Trade Negotiations shall—

(A) be the chief representative of the United States for each trade negotiation under this title or section 301;

(B) report directly to the President and the Congress, and be responsible to the President and the Congress for the administration of trade agreements programs under this Act, the Trade Expansion Act of 1962,¹⁰ and section 350 of the Tariff Act of 1930;

(C) advise the President and Congress with respect to nontariff barriers to international trade, international commodity agreements, and other matters which are related to the trade agreements programs;

(D) be responsible for making reports to Congress with respect to the matter set forth in subparagraphs (A) and (B);

(E) be chairman to the interagency trade organization established pursuant to section 242(a) of the Trade Expansion Act of 1962¹¹; and

(F) be responsible for such other functions as the President may direct.

(2) Each Deputy Special Representative for Trade Negotiation shall have as his principal function the conduct of trade negotiations under this Act and shall have such other functions as the Special Representative for Trade Negotiations may direct.

(d) The Special Representative for Trade Negotiations may, for the purpose of carrying out his functions under this section—

(1) subject to the civil service and classification laws, select, appoint, employ, and fix the compensation of such officers and employees as are necessary and prescribe their authority and duties;

(2) employ experts and consultants in accordance with section 3109 of title 5, United States Code, and compensate individuals so employed for each day (including traveltime) at rates not in excess of the maximum rate of pay for grade GS-18 as provided in section 5332 of title 5, United States Code, and while such

¹⁰ 19 U.S.C. 1801. See p. 95 for text.

¹¹ 19 U.S.C. 1872. See p. 97 for text.

experts and consultants are so serving away from their homes or regular place of business. to pay such employees travel expenses and per diem in lieu of subsistence at rates authorized by section 5703 of title 5, United States Code, for persons in Government service employed intermittently;

(3) promulgate such rules and regulations as may be necessary to carry out the functions vested in him;

(4) utilize, with their consent, the services, personnel, and facilities of other Federal agencies;

(5) enter into and perform such contracts, leases, cooperative agreements, or other transactions as may be necessary in the conduct of the work of the Office and on such terms as the Special Representative for Trade Negotiations may deem appropriate, with any agency or instrumentality of the United States, or with any public or private person, firm, association, corporation, or institution;

(6) accept voluntary and uncompensated services, notwithstanding the provisions of section 3679(b) of the Revised Statutes (31 U.S.C. 665(b)); and

(7) adopt an official seal, which shall be judicially noticed.

(e) The Special Representative for Trade Negotiations shall, to the extent he deems it necessary for the proper administration and execution of the trade agreements programs of the United States, draw upon the resources of, and consult with, Federal agencies in connection with the performance of his functions.

(f) There are authorized to be appropriated to the Office of Special Representative for Trade Negotiations such amounts as may be necessary for the purpose of carrying out its functions for fiscal year 1976 and each fiscal year thereafter any part of which is within the 5-year period beginning on the date of the enactment of this Act.

(g) (1) The Office of Special Representative for Trade Negotiations established under Executive Order No. 11075 of January 15, 1963, as amended,¹² is abolished.

(2) The assets, liabilities, contracts, property, and records and unexpended balances of appropriations, authorizations, allocations, and other funds employed, held, used, arising from, or available to such Office are transferred to the Office of Special Representative for Trade Negotiations established under subsection (a) of this section.

(h) (1) Any individual who holds the position of Special Representative for Trade Negotiations or a position as Deputy Special Representative for Trade Negotiations on the day before the date of enactment of this Act and who has been appointed by and with the advice and consent of the Senate may continue to hold such position without regard to the first sentence of paragraph (1) of subsection (b), or the first sentence of paragraph (2) of subsection (b), as the case may be.

(2) All personnel who on the day before the date of the enactment of this Act are employed by the Office of the Special Representative for Trade Negotiations established by Executive Order No. 11075 of January 15, 1963, as amended,¹² are hereby transferred to the Office

¹² 19 U.S.C. 1801 note.

CHAPTER 5—CONGRESSIONAL PROCEDURES WITH RESPECT TO PRESIDENTIAL ACTIONS

Sec. 151. Bills Implementing Trade Agreements of Nontariff Barriers and Resolutions Approving Commercial Agreements With Communist Countries.

(a) **RULES OF HOUSE OF REPRESENTATIVES AND SENATE.**—This section and sections 152 and 153 are enacted by the Congress—

(1) as an exercise of the rulemaking power of the House of Representatives and the Senate, respectively, and as such they are deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House in the case of implementing bills described in subsection (b)(1), implementing revenue bills described in subsection (b)(2), approval resolutions described in subsection (b)(3), and resolutions described in subsections 152(a) and 153(a); and they supersede other rules only to the extent that they are inconsistent therewith; and

(2) with full recognition of the constitutional right of either House to change the rules (so far as relating to the procedure of that House) at any time, in the same manner and to the same extent as in the case of any other rule of that House.

(b) **DEFINITIONS.**—For purposes of this section—

(1) The term “implementing bill” means only a bill of either House of Congress which is introduced as provided in subsection (c) with respect to one or more trade agreements submitted to the House of Representatives and the Senate under section 102 and which contains—

(A) a provision approving such trade agreement or agreements,

(B) a provision approving the statement of administrative action (if any) proposed to implement such trade agreement or agreements, and

(C) if changes in existing laws or new statutory authority is required to implement such trade agreement or agreements, provisions, necessary or appropriate to implement such trade agreement or agreements, either repealing or amending existing laws or providing new statutory authority.

(2) The term “implementing revenue bill” means an implementing bill which contains one or more revenue measures by reason of which it must originate in the House of Representatives.

(3) The term “approval resolution” means only a concurrent resolution of the two Houses of the Congress, the matter after the resolving clause of which is as follows: “That the Congress approves the extension of nondiscriminatory treatment with respect to the products of ----- transmitted by the President to the Congress on -----”, the first blank space being filled with the name of the country involved and the second blank space being filled with the appropriate date.

(c) **INTRODUCTION AND REFERRAL.**—

(1) On the day on which a trade agreement is submitted to the House of Representatives and the Senate under section 102. the implementing bill submitted by the President with respect to such trade agreement shall be introduced (by request) in the House by

the majority leader of the House, for himself and the minority leader of the House, or by Members of the House designated by the majority leader and minority leader of the House; and shall be introduced (by request) in the Senate by the majority leader of the Senate, for himself and the minority leader of the Senate, or by Members of the Senate designated by the majority leader and minority leader of the Senate. If either House is not in session on the day on which such a trade agreement is submitted, the implementing bill shall be introduced in that House, as provided in the preceding sentence, on the first day thereafter on which that House is in session. Such bills shall be referred by the Presiding Officers of the respective Houses to the appropriate committee, or, in the case of a bill containing provisions within the jurisdiction of two or more committees, jointly to such committees for consideration of those provisions within their respective jurisdictions.

(2) On the day on which a bilateral commercial agreement, entered into under title IV of this Act after the date of the enactment of this Act, is transmitted to the House of Representatives and the Senate, an approval resolution with respect to such agreement shall be introduced (by request) in the House by the majority leader of the House, for himself and the minority leader of the House, or by Members of the House designated by the majority leader and minority leader of the House; and shall be introduced (by request) in the Senate by the majority leader of the Senate, for himself and the minority leader of the Senate, or by Members of the Senate designated by the majority leader and minority leader of the Senate. If either House is not in session on the day on which such an agreement is transmitted, the approval resolution with respect to such agreement shall be introduced in that House, as provided in the preceding sentence, on the first day thereafter on which that House is in session. The approval resolution introduced in the House shall be referred to the Committee on Ways and Means and the approval resolution introduced in the Senate shall be referred to the Committee on Finance.

(d) **AMENDMENTS PROHIBITED.**—No amendment to an implementing bill or approval resolution shall be in order in either the House of Representatives or the Senate; and no motion to suspend the application of this subsection shall be in order in either House, nor shall it be in order in either House for the Presiding Officer to entertain a request to suspend the application of this subsection by unanimous consent.

(e) **PERIOD FOR COMMITTEE AND FLOOR CONSIDERATION.**—

(1) Except as provided in paragraph (2), if the committee or committees of either House to which an implementing bill or approval resolution has been referred have not reported it at the close of the 45th day after its introduction, such committee or committees shall be automatically discharged from further consideration of the bill or resolution and it shall be placed on the appropriate calendar. A vote on final passage of the bill or resolution shall be taken in each House on or before the close of the 15th day after the bill or resolution is reported by the committee or committees of that House to which it was referred, or after such committee or committees have been discharged from further

consideration of the bill or resolution. If prior to the passage by one House of an implementing bill or approval resolution of that House, that House receives the same implementing bill or approval resolution from the other House, then—

(A) the procedure in that House shall be the same as if no implementing bill or approval resolution had been received from the other House; but

(B) the vote on final passage shall be on the implementing bill or approval resolution of the other House.

(2) The provisions of paragraph (1) shall not apply in the Senate to an implementing revenue bill. An implementing revenue bill received from the House shall be referred to the appropriate committee or committees of the Senate. If such committee or committees have not reported such bill at the close of the 15th day after its receipt by the Senate (or, if later, before the close of the 45th day after the corresponding implementing revenue bill was introduced in the Senate), such committee or committees shall be automatically discharged from further consideration of such bill and it shall be placed on the calendar. A vote on final passage of such bill shall be taken in the Senate on or before the close of the 15th day after such bill is reported by the committee or committees of the Senate to which it was referred, or after such committee or committees have been discharged from further consideration of such bill.

(3) For purposes of paragraphs (1) and (2), in computing a number of days in either House, there shall be excluded any day on which that House is not in session.

(f) FLOOR CONSIDERATION IN THE HOUSE.—

(1) A motion in the House of Representatives to proceed to the consideration of an implementing bill or approval resolution shall be highly privileged and not debatable. An amendment to the motion shall not be in order, nor shall it be in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

(2) Debate in the House of Representatives on an implementing bill or approval resolution shall be limited to not more than 20 hours, which shall be divided equally between those favoring and those opposing the bill or resolution. A motion further to limit debate shall not be debatable. It shall not be in order to move to recommit an implementing bill or approval resolution or to move to reconsider the vote by which an implementing bill or approval resolution is agreed to or disagreed to.

(3) Motions to postpone, made in the House of Representatives with respect to the consideration of an implementing bill or approval resolution, and motions to proceed to the consideration of other business, shall be decided without debate.

(4) All appeals from the decisions of the Chair relating to the application of the Rules of the House of Representatives to the procedure relating to an implementing bill or approval resolution shall be decided without debate.

(5) Except to the extent specifically provided in the preceding provisions of this subsection, consideration of an implementing bill or approval resolution shall be governed by the Rules of the

House of Representatives applicable to other bills and resolutions in similar circumstances.

(g) FLOOR CONSIDERATION IN THE SENATE.—

(1) A motion in the Senate to proceed to the consideration of an implementing bill or approval resolution shall be privileged and not debatable. An amendment to the motion shall not be in order, nor shall it be in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

(2) Debate in the Senate on an implementing bill or approval resolution, and all debatable motions and appeals in connection therewith, shall be limited to not more than 20 hours. The time shall be equally divided between, and controlled by, the majority leader and the minority leader or their designees.

(3) Debate in the Senate on any debatable motion or appeal in connection with an implementing bill or approval resolution shall be limited to not more than 1 hour, to be equally divided between, and controlled by, the mover and the manager of the bill or resolution, except that in the event the manager of the bill or resolution is in favor of any such motion or appeal, the time in opposition thereto, shall be controlled by the minority leader or his designee. Such leaders, or either of them, may, from time under their control on the passage of an implementing bill or approval resolution, allot additional time to any Senator during the consideration of any debatable motion or appeal.

(4) A motion in the Senate to further limit debate is not debatable. A motion to recommit an implementing bill or approval resolution is not in order.

Sec. 152. Resolutions Disapproving Certain Actions.

(a) CONTENTS OF RESOLUTIONS.—

(1) For purposes of this section, the term “resolution” means only—

(A) a concurrent resolution of the two Houses of the Congress, the matter after the resolving clause of which is as follows: “That the Congress does not approve _____ transmitted to the Congress on _____”, the first blank space being filled in accordance with paragraph (2) and the second blank space being filled with the appropriate date; and

(B) a resolution of either House of the Congress, the matter after the resolving clause of which is as follows: “That the _____ does not approve _____ transmitted to the Congress on _____”, with the first blank space being filled with the name of the resolving House, the second blank space being filled in accordance with paragraph (3), and the third blank space being filled with the appropriate date.

(2) The first blank space referred to in paragraph (1)(A) shall be filled as follows:

(A) in the case of a resolution referred to in section 203(c), with the phrase “the action taken by, or the determination of, the President under section 203 of the Trade Act of 1974”:
and

(B) in the case of a resolution referred to in section 302(b), with the phrase "the action taken by the President under section 301 of the Trade Act of 1974".

(3) The second blank space referred to in paragraph (1)(B) shall be filled as follows:

(A) in the case of a resolution referred to in section 303(e) of the Tariff Act of 1930,¹³ with the phrase "the determination of the Secretary of the Treasury under section 303(d) of the Tariff Act of 1930";

(B) in the case of a resolution referred to in section 407(c)(2), with the phrase "the extension of nondiscriminatory treatment with respect to the products of _____" (with this blank space being filled with the name of the country involved); and

(C) in the case of a resolution referred to in section 407(c)(3), with the phrase "the report of the President submitted under section _____ of the Trade Act of 1974 with respect to _____" (with the first blank space being filled with "402(b)" or "409(b)", as appropriate, and the second blank space being filled with the name of the country involved).

(b) REFERENCES TO COMMITTEES.—All resolutions introduced in the House of Representatives shall be referred to the Committee on Ways and Means and all resolutions introduced in the Senate shall be referred to the Committee on Finance.

(c) DISCHARGE OF COMMITTEES.—

(1) If the committee of either House to which a resolution has been referred has not reported it at the end of 30 days after its introduction, not counting any day which is excluded under section 153(b), it is in order to move either to discharge the committee from further consideration of the resolution or to discharge the committee from further consideration of any other resolution introduced with respect to the same matter, except no motion to discharge shall be in order after the committee has reported a resolution with respect to the same matter.

(2) A motion to discharge under paragraph (1) may be made only by an individual favoring the resolution, and is highly privileged in the House and privileged in the Senate; and debate thereon shall be limited to not more than 1 hour, the time to be divided in the House equally between those favoring and those opposing the resolution, and to be divided in the Senate equally between, and controlled by, the majority leader and the minority leader or their designees. An amendment to the motion is not in order, and it is not in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

(d) FLOOR CONSIDERATION IN THE HOUSE.—

(1) A motion in the House of Representatives to proceed to the consideration of a resolution shall be highly privileged and not debatable. An amendment to the motion shall not be in order, nor shall it be in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

(2) Debate in the House of Representatives on a resolution shall be limited to not more than 20 hours, which shall be divided equally between those favoring and those opposing the resolution. A motion further to limit debate shall not be debatable. No amendment to, or motion to recommit, the resolution shall be in order. It shall not be in order to move to reconsider the vote by which a resolution is agreed to or disagreed to.

(3) Motions to postpone, made in the House of Representatives with respect to the consideration of a resolution, and motions to proceed to the consideration of other business, shall be decided without debate.

(4) All appeals from the decisions of the Chair relating to the application of the Rules of the House of Representatives to the procedure relating to a resolution shall be decided without debate.

(5) Except to the extent specifically provided in the preceding provisions of this subsection, consideration of a resolution in the House of Representatives shall be governed by the Rules of the House of Representatives applicable to other resolutions in similar circumstances.

(e) FLOOR CONSIDERATION IN THE SENATE.—

(1) A motion in the Senate to proceed to the consideration of a resolution shall be privileged. An amendment to the motion shall not be in order, nor shall it be in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

(2) Debate in the Senate on a resolution, and all debatable motions and appeals in connection therewith, shall be limited to not more than 20 hours, to be equally divided between, and controlled by, the majority leader and the minority leader or their designees.

(3) Debate in the Senate on any debatable motion or appeal in connection with a resolution shall be limited to not more than 1 hour, to be equally divided between, and controlled by, the mover and the manager of the resolution, except that in the event the manager of the resolution is in favor of any such motion or appeal, the time in opposition thereto, shall be controlled by the minority leader or his designee. Such leaders, or either of them, may, from time under their control on the passage of a resolution, allot additional time to any Senator during the consideration of any debatable motion or appeal.

(4) A motion in the Senate to further limit debate on a resolution, debatable motion, or appeal is not debatable. No amendment to, or motion to recommend a resolution is in order in the Senate.

(f) SPECIAL RULE FOR CONCURRENT RESOLUTIONS.—In the case of a resolution described in subsection (a) (1), if prior to the passage by one House of a resolution of that House, that House receives a resolution with respect to the same matter from the other House, then—

(1) the procedure in that House shall be the same as if no resolution had been received from the other House: but

(2) the vote on final passage shall be on the resolution of the other House.

Sec. 153. Resolutions Relating to Extension of Waiver Authority Under Section 402.

(a) **CONTENTS OF RESOLUTIONS.**—For purposes of this section, the term “resolution” means only—

(1) a concurrent resolution of the two Houses of the Congress, the matter after the resolving clause of which is as follows: “That the Congress approves the extension of the authority contained in section 402(c) (1) of the Trade Act of 1974 recommended by the President to the Congress on _____, except with respect to _____”, with the first blank space being filled with the appropriate date and the second blank space being filled with the names of those countries, if any, with respect to which such extension of authority is not approved, and with the except clause being omitted if there is no such country; and

(2) a resolution of either House of the Congress, the matter after the resolving clause of which is as follows: “That the _____ does not approve the extension of the authority contained in section 402(c) of the Trade Act of 1974 recommended by the President to the Congress on _____ with respect to _____”, with the first blank space being filled with the name of the resolving House, the second blank space being filled with the appropriate date, and the third blank space being filled with the names of those countries, if any, with respect to which such extension of authority is not approved, and with the with-respect-to clause being omitted if the extension of the authority is not approved with respect to any country.

(b) **APPLICATION OF RULES OF SECTION 152; EXCEPTIONS.**—

(1) Except as provided in this section, the provisions of section 152 shall apply to resolutions described in subsection (a).

(2) In applying section 152(c) (1), all calendar days shall be counted, and, in the case of a resolution related to section 402(d) (4), 20 calendar days shall be substituted for 30 days.

(3) That part of section 152(d) (2) which provides that no amendment is in order shall not apply to any amendment to a resolution which is limited to striking out or inserting the names of one or more countries or to striking out or inserting an except clause, in the case of a resolution described in subsection (a) (1), or a with-respect-to clause, in the case of a resolution described in subsection (a) (2). Debate in the House of Representatives on any amendment to a resolution shall be limited to not more than 1 hour which shall be equally divided between those favoring and those opposing the amendment. A motion in the House to further limit debate on an amendment to a resolution is not debatable.

(4) That part of section 152(e) (4) which provides that no amendment is in order shall not apply to any amendment to a resolution which is limited to striking out or inserting the names of one or more countries or to striking out or inserting an except clause, in the case of a resolution described in subsection (a) (1), or a with-respect-to clause, in the case of a resolution described in subsection (a) (2). The time limit on a debate on a resolution in the Senate under section 152(e) (2) shall include all amendments to a resolution. Debate in the Senate on any amendment to a resolution shall be limited to not more than 1

hour, to be equally divided between, and controlled by, the mover and the manager of the resolution, except that in the event the manager of the resolution is in favor of any such amendment, the time in opposition thereto shall be controlled by the minority leader or his designee. The majority leader and minority leader may, from time under their control on the passage of a resolution, allot additional time to any Senator during the consideration of any amendment. A motion in the Senate to further limit debate on an amendment to a resolution is not debatable.

(c) CONSIDERATION OF SECOND RESOLUTION NOT IN ORDER.—It shall not be in order in either the House of Representatives or the Senate to consider a resolution with respect to a recommendation of the President under section 402(d) (other than a resolution described in subsection (a)(1) received from the other House), if that House has adopted a resolution with respect to the same recommendation.

Sec. 154. Special Rules Relating to Congressional Procedures.

(a) Whenever, pursuant to section 102(e), 203(b), 302(a), 402(d), or 407 (a) or (b), section 303(e) of the Tariff Act of 1930, a document is required to be transmitted to the Congress, copies of such document shall be delivered to both Houses of Congress on the same day and shall be delivered to the Clerk of the House of Representatives if the House is not in session and to the Secretary of the Senate if the Senate is not in session.

(b) For purposes of sections 203(c), 302(b), 407(c)(2), and 407 (c)(3), the 90-day period referred to in such sections shall be computed by excluding—

(1) the days on which either House is not in session because of an adjournment of more than 3 days to a day certain or an adjournment of the Congress sine die, and

(2) any Saturday and Sunday, not excluded under paragraph (1), when either House is not in session.

CHAPTER 6—CONGRESSIONAL LIAISON AND REPORTS

Sec. 161. Congressional Delegates to Negotiations.

(a) At the beginning of each regular session of Congress, the Speaker of the House of Representatives, upon the recommendation of the chairman of the Committee on Ways and Means, shall select five members (not more than three of whom are members of the same political party) of such committee, and the President pro tempore of the Senate, upon the recommendation of the chairman of the Committee on Finance, shall select five members (not more than three of whom are members of the same political party) of such committee, who shall be accredited by the President as official advisers to the United States delegations to international conferences, meetings, and negotiation sessions relating to trade agreements.

(b) (1) The Special Representative for Trade Negotiation shall keep each official adviser currently informed on United States negotiating objectives, the status of negotiations in progress, and the nature of any changes in domestic law or the administration thereof which may be recommended to Congress to carry out any trade agreement.

(2) The chairmen of the Committee on Ways and Means and the Committee on Finance may designate members (in addition to the

official advisors under subsection (a)) and staff members of their respective committees who shall have access to the information provided to official advisers under paragraph (1).

Sec. 162. Transmission of Agreements to Congress.

(a) As soon as practicable after a trade agreement entered into under chapter 1 or section 123 or 124 has entered into force with respect to the United States, the President shall, if he has not previously done so, transmit a copy of such trade agreement to each House of the Congress together with a statement, in the light of the advice of the International Trade Commission under section 131(b), if any, and of other relevant considerations, of his reasons for entering into the agreement.

(b) The President shall transmit to each Member of the Congress a summary of the information required to be transmitted to each House under subsection (a). For purposes of this subsection, the term "Member" includes any Delegate or Resident Commissioner.

Sec. 163. Reports.

(a) The President shall submit to the Congress an annual report on the trade agreements program and on import relief and adjustment assistance for workers, firms, and communities under this Act. Such report shall include information regarding new negotiations; changes made in duties and nontariff barriers and other distortions of trade of the United States; reciprocal concessions obtained; changes in trade agreements (including the incorporation therein of actions taken for import relief and compensation provided therefor); extension or withdrawal of nondiscriminatory treatment by the United States with respect to the products of a foreign country; extension, modification, withdrawal, suspension, or limitation of preferential treatment to exports of developing countries; the results of action taken to obtain removal of foreign trade restrictions (including discriminatory restrictions) against United States exports and the removal of foreign practices which discriminate against United States service industries (including transportation and tourism) and investment; and the measures being taken to seek the removal of other significant foreign import restrictions; and other information relating to the trade agreements program and to the agreements entered into thereunder. Such report shall also include information regarding the number of applications filed for adjustment assistance for workers, firms, and communities, the number of such applications which were approved, and the extent to which adjustment assistance has been provided under such approved applications.

(b) The International Trade Commission shall submit to the Congress, at least once a year, a factual report on the operation of the trade agreements program.

CHAPTER 7—UNITED STATES INTERNATIONAL TRADE COMMISSION

Sec. 171. Change of Name of Tariff Commission.

(a) The United States Tariff Commission (established by section 330 of the Tariff Act of 1930¹⁴) is renamed as the United States International Trade Commission.

¹⁴ 19 U.S.C. 1330.

(b) Any reference in any law of the United States, or in any order, rule, regulation, or other document, to the United States Tariff Commission (or the Tariff Commission) shall be considered to refer to the United States International Trade Commission.

Sec. 172. Organization of the Commission.

(a) Subsections (a) and (b) of section 330 of the Tariff Act of 1930 (19 U.S.C. 1330) are amended to read as follows:

“(a) **MEMBERSHIP.**—The United States International Trade Commission (referred to in this title as the “Commission”) shall be composed of six commissioners who shall be appointed by the President, by and with the advice and consent of the Senate. No person shall be eligible for appointment as a commissioner unless he is a citizen of the United States, and, in the judgment of the President, is possessed of qualifications requisite for developing expert knowledge of international trade problems and efficiency in administering the duties and functions of the Commission. A person who has served as a commissioner for more than 5 years (excluding service as a commissioner before the date of the enactment of the Trade Act of 1974) shall not be eligible for reappointment as a commissioner. Not more than three of the commissioners shall be members of the same political party, and in making appointments members of different political parties shall be appointed alternately as nearly as may be practicable.

“(b) **TERMS OF OFFICE.**—The terms of office of the commissioners holding office on the date of the enactment of the Trade Act of 1974 which (but for this sentence) would expire on June 16, 1975, June 16, 1976, June 16, 1977, June 16, 1978, June 16, 1979, and June 16, 1980, shall expire on December 16, 1976, June 16, 1978, December 16, 1979, June 16, 1981, December 16, 1982, and June 16, 1984, respectively. The term of office of each commissioner appointed after such date shall expire 9 years from the date of the expiration of the term for which his predecessor was appointed, except that any commissioner appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term.”

(b) Subsection (c) of such section is amended—

(1) by striking out “The” in the first sentence and inserting in lieu thereof “(1) Except as provided in paragraph (2), the”; and

(2) by adding at the end thereof the following new paragraph:

“(2) Effective on and after June 17, 1975, the commissioner whose term is first to expire and who has at least 18 months remaining in his term shall serve as chairman during the last 18 months of his term (or, in the case of a commissioner appointed to fill a vacancy occurring during such 18-month period, during the remainder of his term), and the commissioner whose term is second to expire and who has at least 36 months remaining in his term shall serve as vice chairman during the same 18-month period (or, in the case of a commissioner appointed to fill a vacancy occurring during such 18-month period, during the remainder of such 18-month period).”

(c) (1) Section 5314 of title 5, United States Code, is amended by adding at the end thereof the following new paragraph:

“(61) Chairman, United States International Trade Commission.”

(2) Section 5315 of such title is amended by striking out paragraph (24) and inserting in lieu thereof the following:

“(24) Members, United States International Trade Commission.”

(3) Section 5316 of such title is amended by striking out paragraph (93).

Sec. 173. Voting Record of Commissioners.

Section 332(g) of the Tariff Act of 1930 (19 U.S.C. 1332(g)) is amended—

(1) by striking out “and” before “a summary”, and

(2) by inserting before the period at the end “, and a list of all votes taken by the commission during the year, showing those commissioners voting in the affirmative and the negative on each vote and those commissioners not voting on each vote and the reasons for not voting”.

Sec. 174. Representation in Court Proceedings.

Section 333(c) of the Tariff Act of 1930 (19 U.S.C. 1333(c)) is amended—

(1) by striking out “Upon application of the Attorney General of the United States, at” in subsection (c) and inserting in lieu thereof “At”, and

(2) by adding at the end thereof the following new subsection:
“(g) REPRESENTATION IN COURT PROCEEDINGS.—The Commission shall be represented in all judicial proceedings by attorneys who are employees of the commission or, at the request of the commission, by the Attorney General of the United States.”

Sec. 175. Independent Budget and Authorization of Appropriations.

(a) (1) Effective with respect to the fiscal year beginning October 1, 1976, for purposes of the Budget and Accounting Act, 1921 (31 U.S.C. 1 et seq.), estimated expenditures and proposed appropriations for the United States International Trade Commission shall be transmitted to the President on or before October 15 of the year preceding the beginning of each fiscal year and shall be included by him in the Budget without revision, and the Commission shall not be considered to be a department or establishment for purposes of such Act.

(2) Section 3679 of the Revised Statutes (31 U.S.C. 665) is amended by inserting “the United States International Trade Commission,” before “, or the District of Columbia” each place it appears in subsections (d) and (g).

(b) Section 330 of the Tariff Act of 1930 (19 U.S.C. 1330) is amended by adding at the end thereof the following new subsection:

“(e) AUTHORIZATION OF APPROPRIATIONS.—For the fiscal year beginning October 1, 1976, and each fiscal year thereafter, there are authorized to be appropriated to the Commission only such sums as may hereafter be provided by law.”

(c) (1) Paragraph (2) is enacted as an exercise of the rulemaking power of the Senate and with full recognition of the constitutional right of the Senate to change its rules at any time.

(2) Paragraph 6(a) of rule XVI of the Standing Rules of the Senate is amended by adding at the end of the table contained therein the following:

"Committee on Finance ----- For the International Trade Commission."

TITLE II—RELIEF FROM INJURY CAUSED BY IMPORT COMPETITION

CHAPTER 1—IMPORT RELIEF

Sec. 201. Investigation by International Trade Commission.

(a) (1) A petition for eligibility for import relief for the purpose of facilitating orderly adjustment to import competition may be filed with the International Trade Commission (hereinafter in this chapter referred to as the "Commission") by an entity, including a trade association, firm, certified or recognized union, or group of workers, which is representative of an industry. The petition shall include a statement describing the specific purposes for which import relief is being sought, which may include such objectives as facilitating the orderly transfer of resources to alternative uses and other means of adjustment to new conditions of competition.

(2) Whenever a petition is filed under this subsection, the Commission shall transmit a copy thereof to the Special Representative for Trade Negotiations and the agencies directly concerned.

(b) (1) Upon the request of the President or the Special Representative for Trade Negotiations, upon resolution of either the Committee on Ways and Means of the House of Representatives or the Committee on Finance of the Senate, upon its own motion, or upon the filing of a petition under subsection (a) (1), the Commission shall promptly make an investigation to determine whether an article is being imported into the United States in such increased quantities as to be a substantial cause of serious injury, or the threat thereof, to the domestic industry producing an article like or directly competitive with the imported article.

(2) In making its determinations under paragraph (1), the Commission shall take into account all economic factors which it considers relevant, including (but not limited to)—

(A) with respect to serious injury, the significant idling of productive facilities in the industry, the inability of a significant number of firms to operate at a reasonable level of profit, and significant unemployment or underemployment within the industry;

(B) with respect to threat of serious injury, a decline in sales, a higher and growing inventory, and a downward trend in production, profits, wages, or employment (or increasing underemployment) in the domestic industry concerned; and

(C) with respect to substantial cause, an increase in imports (either actual or relative to domestic production) and a decline in the proportion of the domestic market supplied by domestic producers.

(3) For purposes of paragraph (1), in determining the domestic industry producing an article like or directly competitive with an imported article, the Commission—

(A) may, in the case of a domestic producer which also imports, treat as part of such domestic industry only its domestic production,

(B) may, in the case of a domestic producer which produces more than one article, treat as part of such domestic industry only that portion or subdivision of the producer which produces the like or directly competitive article, and

(C) may, in the case of one or more domestic producers, who produce a like or directly competitive article in a major geographic area of the United States and whose production facilities in such area for such article constitute a substantial portion of the domestic industry in the United States and primarily serve the market in such area, and where the imports are concentrated in such area, treat as such domestic industry only that segment of the production located in such area.

(4) For purposes of this section, the term "substantial cause" means a cause which is important and not less than any other cause.

(5) In the course of any proceeding under this subsection, the Commission shall, for the purpose of assisting the President in making his determinations under sections 202 and 203, investigate and report on efforts made by firms and workers in the industry to compete more effectively with imports.

(6) In the course of any proceeding under this subsection, the Commission shall investigate any factors which in its judgment may be contributing to increased imports of the article under investigation; and, whenever in the course of its investigation the Commission has reason to believe that the increased imports are attributable in part to circumstances which come within the purview of the Antidumping Act, 1921,¹⁵ section 303 or 337 of the Tariff Act of 1930,¹⁶ or other remedial provisions of law, the Commission shall promptly notify the appropriate agency so that such action may be taken as is otherwise authorized by such provisions of law.

(c) In the course of any proceeding under subsection (b), the Commission shall, after reasonable notice, hold public hearings and shall afford interested parties an opportunity to be present, to present evidence, and to be heard at such hearings.

(d)(1) The Commission shall report to the President its findings under subsection (b), and the basis therefor and shall include in each report any dissenting or separate views. If the Commission finds with respect to any article, as a result of its investigation, the serious injury or threat thereof described in subsection (b), it shall—

(A) find the amount of the increase in, or imposition of, any duty or import restriction on such article which is necessary to prevent or remedy such injury, or

(B) if it determines that adjustment assistance under chapters 2, 3, and 4 can effectively remedy such injury, recommend the provision of such assistance.

and shall include such findings or recommendation in its report to the President. The Commission shall furnish to the President a transcript of the hearings and any briefs which were submitted in connection with each investigation.

¹⁵ 19 U.S.C. 160–171. See p. 108 for text.

¹⁶ 19 U.S.C. 1303, 1337.

(2) The report of the Commission of its determination under subsection (b) shall be made at the earliest practicable time, but not later than 6 months after the date on which the petition is filed (or the date on which the request or resolution is received or the motion is adopted, as the case may be). Upon making such report to the President, the Commission shall also promptly make public such report (with the exception of information which the Commission determines to be confidential) and shall cause a summary thereof to be published in the Federal Register.

(e) Except for good cause determined by the Commission to exist, no investigation for the purposes of this section shall be made with respect to the same subject matter as a previous investigation under this section, unless 1 year has elapsed since the Commission made its report to the President of the results of such previous investigation.

(f) (1) Any investigation by the Commission under section 301(b) of the Trade Expansion Act of 1962¹⁷ (as in effect before the date of the enactment of this Act) which is in progress immediately before such date of enactment shall be continued under this section in the same manner as if the investigation had been instituted originally under the provisions of this section. For purposes of subsection (d) (2), the petition for any investigation to which the preceding sentence applies shall be treated as having been filed, or the request or resolution as having been received or the motion having been adopted, as the case may be, on the date of the enactment of this Act.

(2) If, on the date of the enactment of this Act, the President has not taken any action with respect to any report of the Commission containing an affirmative determination resulting from an investigation under section 301(b) of the Trade Expansion Act of 1962¹⁷ (as in effect before the date of the enactment of this Act), such report shall be treated by the President as a report received by him under this section on the date of the enactment of this Act.

Sec. 202. Presidential Action After Investigations.

(a) After receiving a report from the Commission containing an affirmative finding under section 201(b) that increased imports have been a substantial cause of serious injury or the threat thereof with respect to an industry, the President—

(1) (A) shall provide import relief for such industry pursuant to section 203, unless he determines that provision of such relief is not in the national economic interest of the United States, and

(B) shall evaluate the extent to which adjustment assistance has been made available (or can be made available) under chapters 2, 3, and 4 of this title to the workers and firms in such industry and to the communities in which such workers and firms are located, and, after such evaluation, may direct the Secretary of Labor and the Secretary of Commerce that expeditious consideration be given to the petitions for adjustment assistance; or

(2) if the Commission, under section 201(d), recommends the provision of adjustment assistance, shall direct the Secretaries of Labor and Commerce as described in paragraph (1) (B).

(b) Within 60 days (30 days in the case of a supplemental report under subsection (d)) after receiving a report from the Commission

¹⁷ 19 U.S.C. 1901; repealed by section 602(d) of this Act.

containing an affirmative finding under section 201(b) (or a finding under section 201(b) which he considers to be an affirmative finding, by reason of section 330(d) of the Tariff Act of 1930,¹⁴ within such 60-day (or 30-day) period), the President shall—

(1) determine what method and amount of import relief he will provide, or determine that the provision of such relief is not in the national economic interest of the United States, and whether he will direct expeditious consideration of adjustment assistance petitions, and publish in the Federal Register that he has made such determination; or

(2) if such report recommends the provision of adjustment assistance, publish in the Federal Register his order to the Secretary of Labor and Secretary of Commerce for expeditious consideration of petitions.

(c) In determining whether to provide import relief and what method and amount of import relief he will provide pursuant to section 203, the President shall take into account, in addition to such other considerations as he may deem relevant—

(1) information and advice from the Secretary of Labor on the extent to which workers in the industry have applied for, are receiving, or are likely to receive adjustment assistance under chapter 2 or benefits from other manpower programs;

(2) information and advice from the Secretary of Commerce on the extent to which firms in the industry have applied for, are receiving, or are likely to receive adjustment assistance under chapters 3 and 4;

(3) the probable effectiveness of import relief as a means to promote adjustment, the efforts being made or to be implemented by the industry concerned to adjust to import competition, and other considerations relative to the position of the industry in the Nation's economy;

(4) the effect of import relief on consumers (including the price and availability of the imported article and the like or directly competitive article produced in the United States) and on competition in the domestic markets for such articles;

(5) the effect of import relief on the international economic interests of the United States;

(6) the impact on United States industries and firms as a consequence of any possible modification of duties or other import restrictions which may result from international obligations with respect to compensation;

(7) the geographic concentration of imported products marketed in the United States;

(8) the extent to which the United States market is the focal point for exports of such article by reason of restraints on exports of such article to, or on imports of such article into, third country markets; and

(9) the economic and social costs which would be incurred by taxpayers, communities, and workers, if import relief were or were not provided.

(d) The President may, within 15 days after the date on which he receives an affirmative finding of the Commission under section

201(b) with respect to an industry, request additional information from the Commission. The Commission shall, as soon as practicable but in no event more than 30 days after the date on which it receives the President's request, furnish additional information with respect to such industry in a supplemental report.

Sec. 203. Import Relief.

(a) If the President determines to provide import relief under section 202(a) (1), he shall, to the extent that and for such time (not to exceed 5 years) as he determines necessary taking into account the considerations specified in section 202(c) to prevent or remedy serious injury or the threat thereof to the industry in question and to facilitate the orderly adjustment to new competitive conditions by the industry in question—

(1) proclaim an increase in, or imposition of, any duty on the article causing or threatening to cause serious injury to such industry;

(2) proclaim a tariff-rate quota on such article;

(3) proclaim a modification of, or imposition of, any quantitative restriction on the import into the United States of such article;

(4) negotiate orderly marketing agreements with foreign countries limiting the export from foreign countries and the import into the United States of such articles; or

(5) take any combination of such actions.

(b) (1) On the day on which the President proclaims import relief under this section or announces his intention to negotiate one or more orderly marketing agreements, the President shall transmit to Congress a document setting forth the action he is taking under this section. If the action taken by the President differs from the action recommended to him by the Commission under section 201(b) (1) (A), he shall state the reason for such difference.

(2) On the day on which the President determines that the provision of import relief is not in the national economic interest of the United States, the President shall transmit to Congress a document setting forth such determination and the reasons why, in terms of the national economic interest, he is not providing import relief and also what other steps he is taking, beyond adjustment assistance programs immediately available to help the industry to overcome serious injury and the workers to find productive employment.

(c) (1) If the President reports under subsection (b) that he is taking action which differs from the action recommended by the Commission under section 201(b) (1) (A), or that he will not provide import relief, the action recommended by the Commission shall take effect (as provided in paragraph (2)) upon the adoption by both Houses of Congress (within the 90-day period following the date on which the document referred to in subsection (b) is transmitted to the Congress), by an affirmative vote of a majority of the Members of each House present and voting, of a concurrent resolution disapproving the action taken by the President or his determination not to provide import relief under section 202(a) (1) (A).

(2) If the contingency set forth in paragraph (1) occurs, the President shall (within 30 days after the adoption of such resolution)

proclaim the increase in, or imposition of, any duty or other import restriction on the article which was recommended by the Commission under section 201(b).

(d) (1) No proclamation pursuant to subsection (a) or (c) shall be made increasing a rate of duty to (or imposing) a rate which is more than 50 percent ad valorem above the rate (if any) existing at the time of the proclamation.

(2) Any quantitative restriction proclaimed pursuant to subsection (a) or (c) and any orderly marketing agreement negotiated pursuant to subsection (a) shall permit the importation of a quantity or value of the article which is not less than the quantity or value of such article imported into the United States during the most recent period which the President determines is representative of imports of such article.

(e) (1) Import relief under this section shall be proclaimed and take effect within 15 days after the import relief determination date unless the President announces on such date his intention to negotiate one or more orderly marketing agreements under subsection (a) (4) or (5) in which case import relief shall be proclaimed and take effect within 90 days after the import relief determination date.

(2) If the President provides import relief under subsection (a) (1), (2), (3), or (5), he may, after such relief takes effect, negotiate orderly marketing agreements with foreign countries, and may, after such agreements take effect, suspend or terminate, in whole or in part, such import relief.

(3) If the President negotiates an orderly marketing agreement under subsection (a) (4) or (5) and such agreement does not continue to be effective, he may, consistent with the limitations contained in subsection (h), provide import relief under subsection (a) (1), (2), (3), or (5).

(4) For purposes of this subsection, the term "import relief determination date" means the date of the President's determination under section 202(b).

(f) (1) For purposes of subsections (a) and (c), the suspension of item 806.30 or 807.00 of the Tariff Schedules of the United States with respect to an article shall be treated as an increase in duty.

(2) For purposes of subsections (a) and (c), the suspension of the designation of any article as an eligible article for purposes of title V shall be treated as an increase in duty.

(3) No proclamation providing for a suspension referred to in paragraph (1) with respect to any article shall be made under subsection (a) or (c) unless the Commission, in addition to making an affirmative determination with respect to such article under section 201(b), determines in the course of its investigation under section 201(b) that the serious injury (or threat thereof) substantially caused by imports to the domestic industry producing a like or directly competitive article results from the application of item 806.30 or item 807.00.

(4) No proclamation which provides solely for a suspension referred to in paragraph (2) with respect to any article shall be made under subsection (a) or (c) unless the Commission, in addition to making an affirmative determination with respect to such article under section 201(b), determines in the course of its investigation

under section 201(b) that the serious injury (or threat thereof) substantially caused by imports to the domestic industry producing a like or directly competitive article results from the designation of the article as an eligible article for the purposes of title V.

(g) (1) The President shall by regulations provide for the efficient and fair administration of any quantitative restriction proclaimed pursuant to subsection (a) (3) or (c).

(2) In order to carry out an agreement concluded under subsection (a) (4), (a) (5), or (e) (2), the President is authorized to prescribe regulations governing the entry or withdrawal from warehouse of articles covered by such agreement. In addition, in order to carry out any agreement concluded under subsection (a) (4), (a) (5), or (e) (2) with one or more countries accounting for a major part of United States imports of the article covered by such agreements, including imports into a major geographic area of the United States, the President is authorized to issue regulations governing the entry or withdrawal from warehouse of like articles which are the product of countries not parties to such agreement.

(3) Regulations prescribed under this subsection shall, to the extent practicable and consistent with efficient and fair administration, insure against inequitable sharing of imports by a relatively small number of the larger importers.

(h) (1) Any import relief provided pursuant to this section shall, unless renewed pursuant to paragraph (3), terminate no later than the close of the day which is 5 years after the day on which import relief with respect to the article in question first took effect pursuant to this section.

(2) To the extent feasible, any import relief provided pursuant to this section for a period of more than 3 years shall be phased down during the period of such relief, with the first reduction of relief taking effect no later than the close of the day which is 3 years after the day on which such relief first took effect.

(3) Any import relief provided pursuant to this section or section 351 or 352 of the Trade Expansion Act of 1962¹⁸ may be extended by the President, at a level of relief no greater than the level in effect immediately before such extension, for one 3 year period if the President determines, after taking into account the advice received from the Commission under subsection (i) (2) and after taking into account the considerations described in section 202(c), that such extension is in the national interest.

(4) Any import relief provided pursuant to this section may be reduced or terminated by the President when he determines, after taking into account the advice received from the Commission under subsection (i) (2) and after seeking advice of the Secretary of Commerce and the Secretary of Labor, that such reduction or termination is in the national interest.

(5) For purposes of this subsection and subsection (i), the import relief provided in the case of an orderly marketing agreement shall be the level of relief contemplated by such agreement.

(i) (1) So long as any import relief provided pursuant to this section or section 351 or 352 of the Trade Expansion Act of 1962¹⁹

¹⁸ 19 U.S.C. 1981, 1982. See pp. 105-107 for text.

remains in effect, the Commission shall keep under review developments with respect to the industry concerned (including the progress and specific efforts made by the firms in the industry concerned to adjust to import competition) and upon request of the President shall make reports to the President concerning such developments.

(2) Upon request of the President or upon its own motion, the Commission shall advise the President of its judgment as to the probable economic effect on the industry concerned of the extension, reduction, or termination of the import relief provided pursuant to this section.

(3) Upon petition on behalf of the industry concerned, filed with the Commission not earlier than the date which is 9 months, and not later than the date which is 6 months, before the date any import relief provided pursuant to this section or section 351 or 352 of the Trade Expansion Act of 1962 is to terminate by reason of the expiration of the initial period therefor, the Commission shall advise the President of its judgment as to the probable economic effect on such industry of such termination.

(4) In advising the President under paragraph (2) or (3) as to the probable economic effect on the industry concerned, the Commission shall take into account all economic factors which it considers relevant, including the considerations set forth in section 202(c) and the progress and specific efforts made by the industry concerned to adjust to import competition.

(5) Advice by the Commission under paragraph (2) or (3) shall be given on the basis of an investigation during the course of which the Commission shall hold a hearing at which interested persons shall be given a reasonable opportunity to be present, to produce evidence, and to be heard.

(j) No investigation for the purposes of section 201 shall be made with respect to an article which has received import relief under this section unless 2 years have elapsed since the last day on which import relief was provided with respect to such article pursuant to this section.

(k) (1) Actions by the President pursuant to this section may be taken without regard to the provisions of section 126(a) of this Act but only after consideration of the relation of such actions to the international obligations of the United States.

(2) If the Commission treats as the domestic industry production located in a major geographic area of the United States under section 201(b)(3)(C), then the President shall take into account the geographic concentration of domestic production and of imports in that area in providing import relief, if any, which may include actions authorized under paragraph (1).

CHAPTER 2—ADJUSTMENT ASSISTANCE FOR WORKERS

SUBCHAPTER A—PETITIONS AND DETERMINATIONS

Sec. 221. Petitions.

(a) A petition for a certification of eligibility to apply for adjustment assistance under this chapter may be filed with the Secretary of Labor (hereinafter in this chapter referred to as the "Secretary") by a group of workers or by their certified or recognized union or

other duly authorized representative. Upon receipt of the petition, the Secretary shall promptly publish notice in the Federal Register that he has received the petition and initiated an investigation.

(b) If the petitioner, or any other person found by the Secretary to have a substantial interest in the proceedings, submits not later than 10 days after the date of the Secretary's publication under subsection (a) a request for a hearing, the Secretary shall provide for a public hearing and afford such interested persons an opportunity to be present, to produce evidence, and to be heard.

Sec. 222. Group Eligibility Requirements.

The Secretary shall certify a group of workers as eligible to apply for adjustment assistance under this chapter if he determines—

(1) that a significant number or proportion of the workers in such workers' firm or an appropriate subdivision of the firm have become totally or partially separated, or are threatened to become totally or partially separated,

(2) that sales or production, or both, of such firm or subdivision have decreased absolutely, and

(3) that increases of imports of articles like or directly competitive with articles produced by such workers' firm or an appropriate subdivision thereof contributed importantly to such total or partial separation, or threat thereof, and to such decline in sales or production.

For purposes of paragraph (3), the term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

Sec. 223. Determinations by Secretary of Labor.

(a) As soon as possible after the date on which a petition is filed under section 221, but in any event not later than 60 days after that date, the Secretary shall determine whether the petitioning group meets the requirements of section 222 and shall issue a certification of eligibility to apply for assistance under this chapter covering workers in any group which meets such requirements. Each certification shall specify the date on which the total or partial separation began or threatened to begin.

(b) A certification under this section shall not apply to any worker whose last total or partial separation from the firm or appropriate subdivision of the firm before his application under section 231¹⁹ occurred—

(1) more than one year before the date of the petition on which such certification was granted, or

(2) more than 6 months before the effective date of this chapter.

(c) Upon reaching his determination on a petition, the Secretary shall promptly publish a summary of the determination in the Federal Register together with his reasons for making such determination.

(d) Whenever the Secretary determines, with respect to any certification of eligibility of the workers of a firm or subdivision of the firm, that total or partial separations from such firm or subdivision are no longer attributable to the conditions specified in section 222, he

¹⁹ 19 U.S.C. 2291.

shall terminate such certification and promptly have notice of such termination published in the Federal Register together with his reasons for making such determination. Such termination shall apply only with respect to total or partial separations occurring after the termination date specified by the Secretary.

Sec. 224. Study by Secretary of Labor When International Trade Commission Begins Investigation; Action Where There is Affirmative Finding.

(a) Whenever the International Trade Commission (hereafter referred to in this chapter as the "Commission") begins an investigation under section 201 with respect to an industry, the Commission shall immediately notify the Secretary of such investigation, and the Secretary shall immediately begin a study of—

(1) the number of workers in the domestic industry producing the like or directly competitive article who have been or are likely to be certified as eligible for adjustment assistance, and

(2) the extent to which the adjustment of such workers to the import competition may be facilitated through the use of existing programs.

(b) The report of the Secretary of the study under subsection (a) shall be made to the President not later than 15 days after the day on which the Commission makes its report under section 201. Upon making his report to the President, the Secretary shall also promptly make it public (with the exception of information which the Secretary determines to be confidential) and shall have a summary of it published in the Federal Register.

(c) Whenever the Commission makes an affirmative finding under section 201(b) that increased imports are a substantial cause of serious injury or threat thereof with respect to an industry, the Secretary shall make available, to the extent feasible, full information to the workers in such industry about programs which may facilitate the adjustment to import competition of such workers, and he shall provide assistance in the preparation and processing of petitions and applications of such workers for program benefits.

SUBCHAPTER B—PROGRAM BENEFITS

[Sections 231–238; 19 U.S.C. 2291–2298.]

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SUBCHAPTER C—GENERAL PROVISIONS

[Sections 239–250; 19 U.S.C. 2311–2322.]

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Sec. 246. Transitional Provisions.

(a) Where a group of workers has been certified as eligible to apply for adjustment assistance under section 302(b) (2) or (c) of the Trade Expansion Act of 1962,²⁰ any worker who has not had an application for trade readjustment allowances under section 322 of that Act²⁰ denied before the effective date of this chapter may apply under sec-

²⁰ Repealed as of April 3, 1975 by section 602(e) of this Act.

tion 231 of this Act as if the group certification under which he claims coverage had been made under subchapter A of this chapter.

(b) In any case where a group of workers or their certified or recognized union or other duly authorized representative has filed a petition under section 301(a)(2) of the Trade Expansion Act of 1962,²⁰ more than 4 months before the effective date of this chapter and

(1) the Commission has not rejected such petition before the effective date of this chapter, and

(2) the President or his delegate has not issued a certification under section 302(c) of that Act²⁰ to the petitioning group before the effective date of this chapter,

such group or representative thereof may file a new petition under section 221 of this Act, not later than 90 days after the effective date of this chapter. For purposes of section 223(b)(1), the date on which such group or representative filed the petition under the Trade Expansion Act of 1962 shall apply. Section 223(b)(2) shall not apply to workers covered by a certification issued pursuant to a petition meeting the requirements of this subsection.

(c) A group of workers may file a petition under section 221 covering weeks of unemployment (as defined in the Trade Expansion Act of 1962) beginning before the effective date of this chapter, or covering such weeks and also weeks of unemployment beginning on or after the effective date of this chapter.

(d) Any worker receiving payments pursuant to this section shall be entitled—

(1) for weeks of unemployment (as defined in the Trade Expansion Act of 1962) beginning before the effective date of this chapter, to the rights and privileges provided in chapter 3 of title III of such Act, and

(2) for weeks of unemployment beginning on or after the effective date of this chapter, to the rights and privileges provided in this chapter, except that the total number of weeks of unemployment for which an adversely affected worker is eligible for which trade readjustment allowances were payable under that Act shall be deducted from the total number of weeks of unemployment for which an adversely affected worker is eligible for trade readjustment allowances under this chapter.

(e) The Commission shall make available to the Secretary on request data it has acquired in investigations under section 301 of the Trade Expansion Act of 1962^{20 21} concluded within the 2-year period ending on the effective date of this chapter which did not result in Presidential action under section 302(a)(3)²¹ or 302(c)²⁰ of that Act.

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CHAPTER 3—ADJUSTMENT ASSISTANCE FOR FIRMS

Sec. 251. Petitions and Determinations.

(a) A petition for a certification of eligibility to apply for adjustment assistance under this chapter may be filed with the Secretary of Commerce (hereinafter in this chapter referred to as the "Secretary")

²¹ Repealed by section 602(d) of this Act.

by a firm or its representative. Upon receipt of the petition, the Secretary shall promptly publish notice in the Federal Register that he has received the petition and initiated an investigation.

(b) If the petitioner, or any other person, organization, or group found by the Secretary to have a substantial interest in the proceedings, submits not later than 10 days after the date of the Secretary's publication under subsection (a) a request for a hearing, the Secretary shall provide for a public hearing and afford such interested persons an opportunity to be present, to produce evidence, and to be heard.

(c) The Secretary shall certify a firm as eligible to apply for adjustment assistance under this chapter if he determines—

(1) that a significant number or proportion of the workers in such firm have become totally or partially separated, or are threatened to become totally or partially separated,

(2) that sales or production, or both, of such firm have decreased absolutely, and

(3) that increases of imports of articles like or directly competitive with articles produced by such firm contributed importantly to such total or partial separation, or threat thereof, and to such decline in sales or production.

For purposes of paragraph (3), the term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

(d) A determination shall be made by the Secretary as soon as possible after the date on which the petition is filed under this section, but in any event not later than 60 days after that date.

* * * * *

Sec. 263. Transitional Provisions.

(a) In any case where a firm or its representative has filed a petition with the International Trade Commission (hereafter in this chapter referred to as the "Commission") under section 301(a)(2)²⁰ of the Trade Expansion Act of 1962, and the Commission has not made its determination under section 301(c)²⁰ of that Act before the effective date of this chapter, such firm may reapply under the provisions of section 251 of this Act. In order to assist the Secretary in making his determination under such section 251 with respect to such firm, the Commission shall make available to the Secretary, on request, data it has acquired with respect to its investigation.

(b) If, on the effective date of this chapter, the President (or his delegate) has not taken action under section 302(c) of the Trade Expansion Act of 1962²⁰ with respect to a report of the Commission containing an affirmative finding under section 301(c) of that Act²⁰ or a report with respect to which an equal number of Commissioners are evenly divided, the Secretary may treat such report as a certification of eligibility made under section 251 of this Act on the effective date of this chapter.

(c) Any certification of eligibility of a firm under section 302(c) of the Trade Expansion Act of 1962²⁰ made before the effective date of this chapter shall be treated as a certification of eligibility made under section 251 of this Act on the date of the enactment of this Act; except that any firm whose adjustment proposal was certified under

section 311 of the Trade Expansion Act of 1962²⁰ before the effective date of this chapter may receive adjustment assistance at the level set forth in such certified proposal.

Sec. 264. Study by Secretary of Commerce When International Trade Commission Begins Investigation; Action Where There Is Affirmative Finding.

(a) Whenever the Commission begins an investigation under section 201 with respect to an industry, the Commission shall immediately notify the Secretary of such investigation, and the Secretary shall immediately begin a study of—

(1) the number of firms in the domestic industry producing the like or directly competitive article which have been or are likely to be certified as eligible for adjustment assistance, and

(2) the extent to which the orderly adjustment of such firms to the import competition may be facilitated through the use of existing programs.

(b) The report of the Secretary of the study under subsection (a) shall be made to the President not later than 15 days after the day on which the Commission makes its report under section 201. Upon making its report to the President, the Secretary shall also promptly make it public (with the exception of information which the Secretary determines to be confidential) and shall have a summary of it published in the Federal Register.

(c) Whenever the Commission makes an affirmative finding under section 201(b) that increased imports are a substantial cause of serious injury or threat thereof with respect to an industry, the Secretary shall make available, to the extent feasible, full information to the firms in such industry about programs which may facilitate the orderly adjustment to import competition of such firms, and he shall provide assistance in the preparation and processing of petitions and applications of such firms for program benefits.

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CHAPTER 5—MISCELLANEOUS PROVISIONS

Sec. 280. General Accounting Office Report.

(a) The Comptroller General of the United States shall conduct a study of the adjustment assistance programs established under chapters 2, 3, and 4 of this title and shall report the results of such study to the Congress no later than January 31, 1980. Such report shall include an evaluation of—

(1) the effectiveness of such programs in aiding workers, firms, and communities to adjust to changed economic conditions resulting from changes in the patterns of international trade; and

(2) the coordination of the administration of such programs and other Government programs which provide unemployment compensation and relief to depressed areas.

(b) In carrying out his responsibilities under this section, the Comptroller General shall, to the extent practical, avail himself of the assistance of the Departments of Labor and Commerce. The Secretaries of Labor and Commerce shall make available to the Comptroller General any assistance necessary for an effective evaluation of the adjustment assistance programs established under this title.

Sec. 281. Coordination.

There is established the Adjustment Assistance Coordinating Committee to consist of a Deputy Special Trade Representative as Chairman, and the officials charged with adjustment assistance responsibilities of the Departments of Labor and Commerce and the Small Business Administration. It shall be the function of the Committee to coordinate the adjustment assistance policies, studies, and programs of the various agencies involved and to promote the efficient and effective delivery of adjustment assistance benefits.

Sec. 282. Trade Monitoring System.

The Secretary of Commerce and the Secretary of Labor shall establish and maintain a program to monitor imports of articles into the United States which will reflect changes in the volume of such imports, the relation of such imports to changes in domestic production, changes in employment within domestic industries producing articles like or directly competitive with such imports, and the extent to which such changes in production and employment are concentrated in specific geographic regions of the United States. A summary of the information gathered under this section shall be published regularly and provided to the Adjustment Assistance Coordinating Committee, the International Trade Commission, and to the Congress.

Sec. 283. Firms Relocating in Foreign Countries.

Before moving productive facilities from the United States to a foreign country, every firm should—

- (1) provide notice of the move to its employees who are likely to be totally or partially separated as a result of the move at least 60 days before the date of such move, and
 - (2) provide notice of the move to the Secretary of Labor and the Secretary of Commerce on the same day it notifies employees under paragraph (1).
- (b) It is the sense of the Congress that every such firm should—
- (1) apply for and use all adjustment assistance for which it is eligible under this title,
 - (2) offer employment opportunities in the United States, if any exist, to its employees who are totally or partially separated workers as a result of the move, and
 - (3) assist in relocating employees to other locations in the United States where employment opportunities exist.

Sec. 284. Effective Date.

Chapters 2, 3, and 4 of this title shall become effective on the 90th day following the date of enactment of this Act and shall terminate on September 30, 1982.

TITLE III—RELIEF FROM UNFAIR TRADE PRACTICES

CHAPTER 1—FOREIGN IMPORT RESTRICTIONS AND EXPORT SUBSIDIES

Sec. 301. Responses to Certain Trade Practices of Foreign Governments.

(a) Whenever the President determines that a foreign country or instrumentality—

(1) maintains unjustifiable or unreasonable tariff or other import restrictions which impair the value of trade commitments made to the United States or which burden, restrict, or discriminate against United States commerce,

(2) engages in discriminatory or other acts or policies which are unjustifiable or unreasonable and which burden or restrict United States Commerce,

(3) provides subsidies (or other incentives having the effect of subsidies) on its exports of one or more products to the United States or to other foreign markets which have the effect of substantially reducing sales of the competitive United States product or products in the United States or in those other foreign markets, or

(4) imposes unjustifiable or unreasonable restrictions on access to supplies of food, raw materials, or manufactured or semimanufactured products which burden or restrict United States commerce,

the President shall take all appropriate and feasible steps within his power to obtain the elimination of such restrictions or subsidies, and he—

(A) may suspend, withdraw, or prevent the application of, or may refrain from proclaiming, benefits of trade agreement concessions to carry out a trade agreement with such country or instrumentality; and

(B) may impose duties or other import restrictions on the products of such foreign country or instrumentality, and may impose fees or restrictions on the services of such foreign country or instrumentality, for such time as he deems appropriate.

For purposes of this subsection, the term "commerce" includes services associated with the international trade.

(b) In determining what action to take under subsection (a), the President shall consider the relationship of such action to the purposes of this Act. Action shall be taken under subsection (a) against the foreign country or instrumentality involved, except that, subject to the provisions of section 302, any such action may be taken on a non-discriminatory treatment basis.

(c) The President in making a determination under this section, may take action under subsection (a) (3) with respect to the exports of a product to the United States by a foreign country or instrumentality if—

(1) the Secretary of the Treasury has found that such country or instrumentality provides subsidies (or other incentives having the effect of subsidies) on such exports;

(2) the International Trade Commission has found that such exports to the United States have the effect of substantially reducing sales of the competitive United States product or products in the United States; and

(3) the President finds that the Antidumping Act, 1921," and section 303 of the Tariff Act of 1930 " are inadequate to deter such practices.

(d)(1) The President shall provide an opportunity for the presentation of views concerning the restrictions, acts, policies, or

practices referred to in paragraphs (1), (2), (3), and (4) of subsection (a).

(2) Upon complaint filed by any interested party with the Special Representative for Trade Negotiations alleging any such restriction, act, policy, or practice, the Special Representative shall conduct a review of the alleged restriction, act, policy, or practice, and, at the request of the complainant, shall conduct public hearings thereon. The Special Representative shall have a copy of each complaint filed under this paragraph published in the Federal Register. The Special Representative shall issue regulations concerning the filing of complaints and the conduct of reviews and hearings under this paragraph and shall submit a report to the House of Representatives and the Senate semi-annually summarizing the reviews and hearings conducted by it under this paragraph during the preceding 6-month period.

(e) Before the President takes any action under subsection (a) with respect to the import treatment of any product or the treatment of any service—

(1) he shall provide an opportunity for the presentation of views concerning the taking of action with respect to such product or service,

(2) upon request by any interested person, he shall provide for appropriate public hearings with respect to the taking of action with respect to such product or service, and

(3) he may request the International Trade Commission for its views as to the probable impact on the economy of the United States of the taking of action with respect to such product or service.

If the President determines that, because of the need for expeditious action under subsection (a), compliance with paragraphs (1) and (2) would be contrary to the national interest, then such paragraphs shall not apply with respect to such action, but he shall thereafter promptly provide an opportunity for the presentation of views concerning the action taken and, upon request by any interested person, shall provide for appropriate public hearings with respect to the action taken. The President shall provide for the issuance of regulations concerning the filing of requests for, and the conduct of, hearings under this subsection.

Sec. 302. Procedure for Congressional Disapproval of Certain Actions Taken Under Section 301.

(a) Whenever the President takes any action under subparagraph (A) or (B) of section 301(a) with respect to any country or instrumentality other than the country or instrumentality whose restriction, act, policy, or practice was the cause for taking such action, he shall promptly transmit to the House of Representatives and to the Senate a document setting forth the action which he has so taken, together with his reasons therefor.

(b) If, before the close of the 90-day period beginning on the day on which the document referred to in subsection (a) is delivered to the House of Representatives and to the Senate, the two Houses adopt, by an affirmative vote of a majority of those present and voting in each House, a concurrent resolution of disapproval under the pro-

cedures set forth in section 152, then such action under section 301(a) shall have no force and effect beginning with the day after the date of the adoption of such concurrent resolution of disapproval, except with respect to the country or instrumentality whose restriction, act, policy, or practice was the cause for taking such action.

CHAPTER 2—ANTIDUMPING DUTIES

Sec. 321. [Subsections (a), (b), (c), (d), (e), and (g) (1) and (2) amend the Antidumping Act of 1921, as amended.¹⁶]

* * * * *

(f) (1) Section 516 of the Tariff Act of 1930 (19 U.S.C. 1516) is amended by redesignating subsections (d), (e), (f), and (g) as subsections (e), (f), (g), and (h), respectively, and by inserting after subsection (c) the following new subsection:

“(d) Within 30 days after a determination by the Secretary—

“(1) under section 201 of the Antidumping Act, 1921 (19 U.S.C. 160), that a class or kind of foreign merchandise is not being, nor likely to be, sold in the United States at less than its fair value, or

(2) under section 303 of this Act that a bounty or grant is not being paid or bestowed,

an American manufacturer, producer, or wholesaler of merchandise of the same class or kind as that described in such determination may file with the Secretary a written notice of a desire to contest such determination. Upon receipt of such notice the Secretary shall cause publication to be made thereof and of such manufacturer's, producer's, or wholesaler's desire to contest the determination. Within 30 days after such publication, such manufacturer, producer, or wholesaler may commence an action in the United States Customs Court contesting such determination.”

(2) Section 2631(b) of title 28, United States Code, is amended by inserting before the period at the end thereof “, or, in the case of an action under section 516(d) of such Act, after the date of publication of a notice under such section”.

(3) Section 2632 of title 28, United States Code, is amended—

(A) by striking out the first sentence of subsection (a) and inserting in lieu thereof the following: “A party may contest (1) denial of a protest under section 515 of the Tariff Act of 1930, as amended; (2) a decision of the Secretary of the Treasury made under section 516 of the Tariff Act of 1930, as amended; or (3) a determination by the Secretary of the Treasury under section 201 of the Antidumping Act, 1921, as amended, that a class or kind of merchandise is not being, nor likely to be, sold in the United States at less than its fair value, or under section 303 of the Tariff Act of 1930 that a bounty or grant is not being paid or bestowed; by bringing a civil action in the Customs Court.”;

(B) by inserting after “designee” in subsection (f) “in any action brought under subsection (a) (1) or (a) (2)”;

(C) by adding at the end thereof the following new subsection:

“(g) Upon service of the summons on the Secretary of the Treasury or his designee in an action contesting the Secretary's determination

under section 201 of the Antidumping Act, 1921, as amended, that a class or kind of foreign merchandise is not being, nor likely to be, sold in the United States at less than its fair value, the Secretary or his designee shall forthwith transmit to the United States Customs Court, as the official record of the civil action, a certified copy of the transcript of any hearing held by the Secretary in the particular antidumping proceeding pursuant to section 201(d)(1) of the Antidumping Act, 1921, as amended, and certified copies of all notices, determinations, or other matters which the Secretary has caused to be published in the Federal Register in connection with the particular antidumping proceeding. Upon service of the summons on the Secretary of the Treasury or his designee in an action contesting the Secretary's determination under section 303 of the Tariff Act of 1930 that a bounty or grant is not being paid or bestowed, the Secretary or his designee shall forthwith transmit to the United States Customs Court, as the official record of the civil action, a certified copy of the transcript of all hearings held by the Secretary in the proceeding which resulted in such determination and certified copies of all notices, determinations, or other matters which the Secretary has caused to be published in the Federal Register in connection with such proceeding."

* * * * *

(g) * * *

(3) The amendments made by subsection (f) shall apply with respect to determinations under section 201 of the Antidumping Act, 1921, resulting from questions of dumping raised or presented on or after the date of the enactment of this Act.

CHAPTER 3—COUNTERVAILING DUTIES

Sec. 331. Amendments to Sections 303 and 516 of the Tariff Act of 1930.

(a) Section 303 of the Tariff Act of 1930 (19 U.S.C. sec. 1303) is amended to read as follows:

"Sec. 303. Countervailing Duties.

"(a) **LEVY OF COUNTERVAILING DUTIES.**—(1) Whenever any country, dependency, colony, province, or other political subdivision of government, person, partnership, association, cartel, or corporation, shall pay or bestow, directly or indirectly, any bounty or grant upon the manufacture or production or export of any article or merchandise manufactured or produced in such country, dependency, colony, province, or other political subdivision of government, then upon the importation of such article or merchandise into the United States, whether the same shall be imported directly from the country of production or otherwise, and whether such article or merchandise is imported in the same condition as when exported from the country of production or has been changed in condition by remanufacture or otherwise, there shall be levied and paid, in all such cases, in addition to any duties otherwise imposed, a duty equal to the net amount of such bounty or grant, however the same be paid or bestowed.

"(2) In the case of any imported article or merchandise which is free of duty, duties may be imposed under this section only if there is

an affirmative determination by the Commission under subsection (b) (1); except that such a determination shall not be required unless a determination of injury is required by the international obligations of the United States.

“(3) In the case of any imported article or merchandise as to which the Secretary of the Treasury (hereafter in this section referred to as the ‘Secretary’) has not determined whether or not any bounty or grant is being paid or bestowed—

“(A) upon the filing of a petition by any person setting forth his belief that a bounty or grant is being paid or bestowed, and the reasons therefor, or

“(B) whenever the Secretary concludes, from information presented to him or to any person to whom authority under this section has been delegated, that a formal investigation is warranted into the question of whether a bounty or grant is being paid or bestowed,

the Secretary shall initiate a formal investigation to determine whether or not any bounty or grant is being paid or bestowed and shall publish in the Federal Register notice of the initiation of such investigation.

“(4) Within six months from the date on which a petition is filed under paragraph (3) (A) or on which notice is published of an investigation initiated under paragraph (3) (B), the Secretary shall make a preliminary determination, and within twelve months from such date shall make a final determination, as to whether or not any bounty or grant is being paid or bestowed.

“(5) The Secretary shall from time to time ascertain and determine, or estimate, the net amount of each such bounty or grant, and shall declare the net amount so determined or estimated.

“(6) The secretary shall make all regulations he deems necessary for the identification of articles and merchandise subject to duties under this section and for the assessment and collection of such duties. All determinations by the Secretary under this section, and all determinations by the Commission under subsection (b) (1) (whether affirmative or negative) shall be published in the Federal Register.

“(b) INJURY DETERMINATIONS WITH RESPECT TO DUTY-FREE MERCHANDISE; SUSPENSION OF LIQUIDATION.—(1) Whenever the Secretary makes a final determination under subsection (a) that a bounty or grant is being paid or bestowed with respect to any article or merchandise which is free of duty and a determination by the Commission is required under subsection (a) (2), he shall—

“(A) so advise the Commission, and the Commission shall determine within three months thereafter, and after such investigation as it deems necessary, whether an industry in the United States is being or is likely to be injured, or is prevented from being established, by reason of the importation of such article or merchandise into the United States; and the Commission shall notify the Secretary of its determination; and

“(B) require, under such regulations as he may prescribe, the suspension of liquidation as to such article or merchandise entered, or withdrawn from warehouse, for consumption on or after the date of the publication in the Federal Register of his final deter-

mination under subsection (a), and such suspension of liquidation shall continue until the further order of the Secretary or until he has made public an order as provided for in paragraph (3).

“(2) For the purposes of this subsection, the Commission shall be deemed to have made an affirmative determination if the commissioners voting are evenly divided as to whether its determination should be in the affirmative or in the negative.

“(3) If the determination of the Commission under paragraph (1) (A) is in the affirmative, the Secretary shall make public an order directing the assessment and collection of duties in the amount of such bounty or grant as is from time to time ascertained and determined, or estimated, under subsection (a).

“(c) APPLICATION OF AFFIRMATIVE DETERMINATION.—An affirmative final determination by the Secretary under subsection (a) with respect to any imported article or merchandise shall apply with respect to articles entered, or withdrawn from warehouse, for consumption on or after the date of the publication in the Federal Register of such determination. In the case of any imported article or merchandise which is free of duty, so long as a finding of injury is required by the international obligations of the United States, the preceding sentence shall apply only if the Commission makes an affirmative determination of injury under subsection (b) (1).

“(d) TEMPORARY PROVISION WHILE NEGOTIATIONS ARE IN PROGRESS.—(1) It is the sense of the Congress that the President, to the extent practicable and consistent with United States interests, seek through negotiations the establishment of internationally agreed rules and procedures governing the use of subsidies (and other export incentives) and the application of countervailing duties.

“(2) If, after seeking information and advice from such agencies as he may deem appropriate, the Secretary of the Treasury determines, at any time during the four-year period beginning on the date of the enactment of the Trade Act of 1974, that—

“(A) adequate steps have been taken to reduce substantially or eliminate during such period the adverse effect of a bounty or grant which he has determined is being paid or bestowed with respect to any article or merchandise;

“(B) there is a reasonable prospect that, under section 102 of the Trade Act of 1974, successful trade agreements will be entered into with foreign countries or instrumentalities providing for the reduction or elimination of barriers to or other distortions of international trade; and

“(C) the imposition of the additional duty under this section with respect to such article or merchandise would be likely to seriously jeopardize the satisfactory completion of such negotiations;

the imposition of the additional duty under this section with respect to such article or merchandise shall not be required during the remainder of such four-year period. This paragraph shall not apply with respect to any case involving non-rubber footwear pending on the date of the enactment of the Trade Act of 1974 until and unless agreements which temporize imports of non-rubber footwear become effective.

"(3) The determination of the Secretary under paragraph (2) may be revoked by him, in his discretion, at any time, and any determination made under such paragraph shall be revoked whenever the basis supporting such determination no longer exists. The additional duty provided under this section shall apply with respect to any affected articles or merchandise entered, or withdrawn from warehouse, for consumption on or after the date of publication of any revocation under this subsection in the Federal Register.

"(e) REPORTS TO CONGRESS.—(1) Whenever the Secretary makes a determination under subsection (d) (2) with respect to any article or merchandise, he shall promptly transmit to the House of Representatives and the Senate a document setting forth the determination, together with his reasons therefor.

"(2) If, at any time after the document referred to in paragraph (1) is delivered to the House of Representatives and the Senate, either the House or the Senate adopts, by an affirmative vote of a majority of those present and voting in that House, a resolution of disapproval under the procedures set forth in section 152, then such determination under subsection (d) (2) with respect to such article or merchandise shall have no force or effect beginning with the day after the date of the adoption of such resolution of disapproval, and the additional duty provided under this section with respect to such article or merchandise shall apply with respect to articles or merchandise entered, or withdrawn from warehouse, for consumption on or after such day."

(b) So much of section 516 of the Tariff Act of 1930 (19 U.S.C. 1516) as precedes subsection (d) is amended to read as follows:

"Sec. 516. Petitions by American Manufacturers, Producers, or Wholesalers.

"(a) The Secretary shall, upon written request by an American manufacturer, producer, or wholesaler, furnish the classification, the rate of duty, the additional duty described in section 303 of this Act (hereinafter in this section referred to as 'countervailing duties'), if any, and the special duty described in section 202 of the Antidumping Act, 1921²² (hereinafter in this section referred to as 'antidumping duties'), if any, imposed upon designated imported merchandise of a class or kind manufactured, produced, or sold at wholesale by him. If such manufacturer, producer, or wholesaler believes that the appraised value is too low, that the classification is not correct, that the proper rate of duty is not being assessed, or that countervailing duties or antidumping duties should be assessed, he may file a petition with the Secretary setting forth (1) a description of the merchandise, (2) the appraised value, the classification, or the rate or rates of duty that he believes proper, and (3) the reasons for his belief including, in appropriate instances, the reasons for his belief that countervailing duties or antidumping duties should be assessed.

"(b) If, after receipt and consideration of a petition filed by an American manufacturer, producer, or wholesaler, the Secretary decides that the appraised value of the merchandise is too low, that the

²² 19 U.S.C. 161, p. 110 for text.

classification of the article or rate of duty assessed thereon is not correct, or that countervailing duties or antidumping duties should be assessed, he shall determine the proper appraised value or classification, rate of duty, or countervailing duties, or antidumping duties and shall notify the petitioner of his determination. Except for countervailing duty and antidumping duty purposes, all such merchandise entered for consumption or withdrawn from warehouse for consumption more than thirty days after the date such notice to the petitioner is published in the weekly Customs Bulletin shall be appraised or classified or assessed as to rate of duty in accordance with the Secretary's determination. For countervailing duty purposes, the procedures set forth in section 303 shall apply. For antidumping duty purposes, the procedures set forth in section 201 of the Antidumping Act, 1921,¹⁵ shall apply.

"(c) If the Secretary decides that the appraised value or classification of the articles or the rate of duty with respect to which a petition was filed pursuant to subsection (a) is correct, or that countervailing duties or antidumping duties should not be assessed, he shall so inform the petitioner. If dissatisfied with the decision of the Secretary, the petitioner may file with the Secretary, not later than thirty days after the date of the decision, notice that he desires to contest the appraised value or classification of, or rate of duty assessed upon or the failure to assess countervailing duties or antidumping duties upon, the merchandise. Upon receipt of notice from the petitioner, the Secretary shall cause publication to be made of his decision as to the proper appraised value or classification or rate of duty or that countervailing duties or antidumping duties should not be assessed and of the petitioner's desire to contest, and shall thereafter furnish the petitioner with such information as to the entries and consignees of such merchandise, entered after the publication of the decision of the Secretary at such ports of entry designated by the petitioner in his notice of desire to contest, as will enable the petitioner to contest the appraised value or classification of, or rate of duty imposed upon or failure to assess countervailing duties or antidumping duties upon, such merchandise in the liquidation of one such entry at such port. The Secretary shall direct the appropriate Customs officer at such ports to notify the petitioner by mail immediately when the first of such entries is liquidated."

(c) Section 515(d) of the Tariff Act of 1930 (19 U.S.C. 1315(d)) is amended by inserting before the period at the end thereof "or the imposition of countervailing duties under section 303".

(d) (1) The amendments made by this section shall take effect on the date of the enactment of this Act.

(2) For purposes of applying the provisions of section 303(a)(4) of the Tariff Act of 1930 (as amended by subsection (a)) with respect to any investigation which was initiated before the date of the enactment of this Act under section 303 of such Act (as in effect before such date), such investigation shall be treated as having been initiated on the day after such date of enactment under section 303(a)(3)(B) of such Act.

(3) Any article which is entered or withdrawn from warehouse free of duty as a result of action taken under title V of this Act shall be considered a nondutiable article for purposes of section 303 of the Tariff Act of 1930, as amended (19 U.S.C. sec. 1303).

CHAPTER 4—UNFAIR IMPORT PRACTICES

Sec. 341. Amendment to Section 337 of the Tariff Act of 1930.

(a) Section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) is amended to read as follows:

“Sec. 337. Unfair Practices in Import Trade.

“(a) **UNFAIR METHODS OF COMPETITION DECLARED UNLAWFUL.**—Unfair methods of competition and unfair acts in the importation of articles into the United States, or in their sale by the owner, importer, consignee, or agent of either, the effect or tendency of which is to destroy or substantially injure an industry, efficiently and economically operated, in the United States, or to prevent the establishment of such an industry, or to restrain or monopolize trade and commerce in the United States, are declared unlawful, and when found by the Commission to exist shall be dealt with, in addition to any other provisions of law, as provided in this section.

“(b) **INVESTIGATIONS OF VIOLATIONS BY COMMISSION; TIME LIMITS.**—(1) The Commission shall investigate any alleged violation of this section on complaint under oath or upon its initiative. Upon commencing any such investigation, the Commission shall publish notice thereof in the Federal Register. The Commission shall conclude any such investigation, and make its determination under this section, at the earliest practicable time, but not later than one year (18 months in more complicated cases) after the date of publication of notice of such investigation. The Commission shall publish in the Federal Register its reasons for designating any investigation as a more complicated investigation. For purposes of the one-year and 18-month periods prescribed by this subsection, there shall be excluded any period of time during which such investigation is suspended because of proceedings in a court or agency of the United States involving similar questions concerning the subject matter of such investigation.

“(2) During the course of each investigation under this section, the Commission shall consult with, and seek advice and information from, the Department of Health, Education, and Welfare, the Department of Justice, the Federal Trade Commission, and such other departments and agencies as it considers appropriate.

“(3) Whenever, in the course of an investigation under this section, the Commission has reason to believe, based on information before it, that the matter may come within the purview of section 303 or of the Antidumping Act, 1921, it shall promptly notify the Secretary of the Treasury so that such action may be taken as is otherwise authorized by such section and such Act.

“(c) **DETERMINATIONS; REVIEW.**—The Commission shall determine, with respect to each investigation conducted by it under this section, whether or not there is a violation of this section. Each determination under subsection (d) or (e) shall be made on the record after notice and opportunity for a hearing in conformity with the provisions of subchapter II of chapter 5 of title 5, United States Code. All legal and equitable defenses may be presented in all cases. Any person adversely affected by a final determination of the Commission under

subsection (d) or (e) may appeal such determination to the United States Court of Customs and Patent Appeals. Such court shall have jurisdiction to review such determination in the same manner and subject to the same limitations and conditions as in the case of appeals from decisions of the United States Customs Court.

“(d) **EXCLUSION OF ARTICLES FROM ENTRY.**—If the Commission determines, as a result of an investigation under this section, that there is violation of this section, it shall direct that the articles concerned, imported by any person violating the provision of this section, be excluded from entry into the United States, unless, after considering the effect of such exclusion upon the public health and welfare, competitive conditions in the United States economy, the production of like or directly competitive articles in the United States, and United States consumers, it finds that such articles should not be excluded from entry. The Commission shall notify the Secretary of the Treasury of its action under this subsection directing such exclusion from entry, and upon receipt of such notice, the Secretary shall, through the proper officers, refuse such entry.

“(e) **EXCLUSION OF ARTICLES FROM ENTRY DURING INVESTIGATION EXCEPT UNDER BOND.**—If, during the course of an investigation under this section, the Commission determines that there is reason to believe that there is a violation of this section, it may direct that the articles concerned, imported by any person with respect to whom there is reason to believe that such person is violating this section, be excluded from entry into the United States, unless after considering the effect of such exclusion upon the public health and welfare, competitive conditions in the United States economy, the production of like or directly competitive articles in the United States, and United States consumers, it finds that such articles should not be excluded from entry. The Commission shall notify the Secretary of the Treasury of its action under this subsection directing such exclusion from entry, and upon receipt of such notice, the Secretary shall, through the proper officers, refuse such entry, except that such articles shall be entitled to entry under bond determined by the Commission and prescribed by the Secretary.

“(f) **CEASE AND DESIST ORDERS.**—In lieu of taking action under subsection (d) or (e), the Commission may issue and cause to be served on any person violating this section, or believed to be violating this section, as the case may be, an order directing such person to cease and desist from engaging in the unfair methods or acts involved, unless after considering the effect of such order upon the public health and welfare, competitive conditions in the United States economy, the production of like or directly competitive articles in the United States, and United States consumers, it finds that such order should not be issued. The Commission may at any time, upon such notice and in such manner as it deems proper, modify or revoke any such order, and, in the case of a revocation, may take action under subsection (d) or (e), as the case may be.

“(g) **REFERRAL TO THE PRESIDENT.**—(1) If the Commission determines that there is a violation of this section, or that, for purposes of subsection (e), there is reason to believe that there is such a violation, it shall—

“(A) publish such determination in the Federal Register, and

“(B) transmit to the President a copy of such determination and the action taken under subsection (d), (e), or (f), with respect thereto, together with the record upon which such determination is based.

“(2) If, before the close of the 60-day period beginning on the day after the day on which he receives a copy of such determination, the President, for policy reasons, disapproves such determination and notifies the Commission of his disapproval, then, effective on the date of such notice, such determination and the action taken under subsection (d), (e), or (f) with respect thereto shall have no force or effect.

“(3) Subject to the provisions of paragraph (2), such determination shall, except for purposes of subsection (c), be effective upon publication thereof in the Federal Register, and the action taken under subsection (d), (e), or (f) with respect thereto shall be effective as provided in such subsections, except that articles directed to be excluded from entry under subsection (d) or subject to a cease and desist order under subsection (f) shall be entitled to entry under bond determined by the Commission and prescribed by the Secretary until such determination becomes final.

“(4) If the President does not disapprove such determination within such 60-day period, or if he notifies the Commission before the close of such period that he approves such determination, then, for purposes of paragraph (3) and subsection (c) such determination shall become final on the day after the close of such period or the day on which the President notifies the Commission of his approval, as the case may be.

“(h) PERIOD OF EFFECTIVENESS.—Except as provided in subsections (f) and (g), any exclusion from entry or order under this section shall continue in effect until the Commission finds, and in the case of exclusion from entry notifies the Secretary of the Treasury, that the conditions which led to such exclusion from entry or order no longer exist.

“(i) IMPORTATION BY OR FOR THE UNITED STATES.—Any exclusion from entry or order under subsection (d), (e), or (f), in cases based on claims of United States letters patent, shall not apply to any articles imported by and for the use of the United States, or imported for, and to be used for, the United States with the authorization or consent of the Government. Whenever any article would have been excluded from entry or would not have been entered pursuant to the provisions of such subsections but for the operation of this subsection, a patent owner adversely affected shall be entitled to reasonable and entire compensation in an action before the Court of Claims pursuant to the procedures of section 1498 of title 28, United States Code.

“(j) DEFINITION OF UNITED STATES.—For purposes of this section and sections 338 and 340, the term ‘United States’ means the customs territory of the United States as defined in general headnote 2 of the Tariff Schedules of the United States.”

(b) Section 332(g) of the Tariff Act of 1930 (19 U.S.C. 1332(g)) is amended by adding at the end thereof the following new sentence: “Each such annual report shall include a list of all complaints filed under section 337 during the year for which such report is being made,

the date on which each such complaint was filed, and the action taken thereon, and the status of all investigations conducted by the commission under such section during such year and the date on which each such investigation was commenced."

(c) The amendments made by this section shall take effect on the 90th day after the date of the enactment of this Act, except that, for purposes of issuing regulations under section 337 of the Tariff Act of 1930, such amendments shall take effect on the date of the enactment of this Act. For purposes of applying section 337(b) of the Tariff Act of 1930 (as amended by subsection (a)) with respect to investigations being conducted by the International Trade Commission under section 337 of the Tariff Act on the day prior to the 90th day after the date of the enactment of this Act, such investigations shall be considered as having been commenced on such 90th day.

TITLE IV—TRADE RELATIONS WITH COUNTRIES NOT CURRENTLY RECEIVING NONDISCRIMINATORY TREATMENT

Sec. 401. Exception of the Products of Certain Countries or Areas.

Except as otherwise provided in this title, the President shall continue to deny nondiscriminatory treatment to the products of any country, the products of which were not eligible for the rates set forth in rate column numbered 1 of the Tariff Schedules of the United States on the date of the enactment of this Act.

Sec. 402. Freedom of Emigration in East-West Trade.

(a) To assure the continued dedication of the United States to fundamental human rights, and notwithstanding any other provision of law, on or after the date of the enactment of this Act products from any nonmarket economy country shall not be eligible to receive nondiscriminatory treatment (most-favored-nation treatment), such country shall not participate in any program of the Government of the United States which extends credits or credit guarantees or investment guarantees, directly or indirectly, and the President of the United States shall not conclude any commercial agreement with any such country, during the period beginning with the date on which the President determines that such country—

- (1) denies its citizens the right or opportunity to emigrate;
- (2) imposes more than a nominal tax on emigration or on the visas or other documents required for emigration, for any purpose or cause whatsoever; or

- (3) imposes more than a nominal tax, levy, fine, fee, or other charge on any citizen as a consequence of the desire of such citizen to emigrate to the country of his choice,

and ending on the date on which the President determines that such country is no longer in violation of paragraph (1), (2), or (3).

(b) After the date of the enactment of this Act, (A) products of a nonmarket economy country may be eligible to receive nondiscriminatory treatment (most-favored-nation treatment), (B) such country may participate in any program of the Government of the

United States which extends credits or credit guarantees or investment guarantees, and (C) the President may conclude a commercial agreement with such country, only after the President has submitted to the Congress a report indicating that such country is not in violation of paragraph (1), (2), or (3) of subsection (a). Such report with respect to such country shall include information as to the nature and implementation of emigration laws and policies and restrictions or discrimination applied to or against persons wishing to emigrate. The report required by this subsection shall be submitted initially as provided herein and, with current information, on or before each June 30 and December 31 thereafter so long as such treatment is received, such credits or guarantees are extended, or such agreement is in effect.

(c) (1) During the 18-month period beginning on the date of the enactment of this Act, the President is authorized to waive by Executive order the application of subsection (a) and (b) with respect to any country, if he reports to the Congress that—

(A) he has determined that such waiver will substantially promote the objectives of this section; and

(B) he has received assurances that the emigration practices of that country will henceforth lead substantially to the achievement of the objectives of this section.

(2) During any period subsequent to the 18-month period referred to in paragraph (1), the President is authorized to waive by Executive order the application of subsections (a) and (b) with respect to any country, if the waiver authority granted by this subsection continues to apply to such country pursuant to subsection (d), and if he reports to the Congress that—

(A) he has determined that such waiver will substantially promote the objectives of this section; and

(B) he has received assurances that the emigration practices of that country will henceforth lead substantially to the achievement of the objectives of this section.

(3) A waiver with respect to any country shall terminate on the day after the waiver authority granted by this subsection ceases to be effective with respect to such country pursuant to subsection (d). The President may, at any time, terminate by Executive order any waiver granted under this subsection.

(d) (1) If the President determines that the extension of the waiver authority granted by subsection (c) (1) will substantially promote the objectives of this section, he may recommend to the Congress that such authority be extended for a period of 12 months. Any such recommendation shall—

(A) be made not later than 30 days before the expiration of such authority;

(B) be made in a document transmitted to the House of Representatives and the Senate setting forth his reasons for recommending the extension of such authority; and

(C) include, for each country with respect to which a waiver granted under subsection (c) (1) is in effect, a determination that continuation of the waiver applicable to that country will substantially promote the objectives of this section, and a statement setting forth his reasons for such determination.

(2) If the President recommends under paragraph (1) the extension of the waiver authority granted by subsection (c) (1), such authority shall continue in effect with respect to any country for a period of 12 months following the end of the 18-month period, referred to in subsection (c) (1), if, before the end of such 18-month period, the House of Representatives and the Senate adopt, by an affirmative vote of a majority of the Members present and voting in each House and under the procedures set forth in section 153, a concurrent resolution approving the extension of such authority, and such resolution does not name such country as being excluded from such authority. Such authority shall cease to be effective with respect to any country named in such concurrent resolution on the date of the adoption of such concurrent resolution. If before the end of such 18-month period, a concurrent resolution approving the extension of such authority is not adopted by the House and the Senate, but both the House and Senate vote on the question of final passage of such a concurrent resolution and—

(A) both the House and the Senate fail to pass such a concurrent resolution, the authority granted by subsection (c) (1) shall cease to be effective with respect to all countries at the end of such 18-month period;

(B) both the House and the Senate pass such a concurrent resolution which names such country as being excluded from such authority, such authority shall cease to be effective with respect to such country at the end of such 18-month period; or

(C) one House fails to pass such a concurrent resolution and the other House passes such a concurrent resolution which names such country as being excluded from such authority, such authority shall cease to be effective with respect to such country at the end of such 18-month period.

(3) If the President recommends under paragraph (1) the extension of the waiver authority granted by subsection (c) (1), and at the end of the 18-month period referred to in subsection (c) (1) the House of Representatives and the Senate have not adopted a concurrent resolution approving the extension of such authority and subparagraph (A) of paragraph (2) does not apply, such authority shall continue in effect for a period of 60 days following the end of such 18-month period with respect to any country (except for any country with respect to which such authority was not extended by reason of the application of subparagraph (B) or (C) of paragraph (2)), and shall continue in effect for a period of 12 months following the end of such 18-month period with respect to any such country if, before the end of such 60-day period, the House of Representatives and the Senate adopt, by an affirmative vote of a majority of the Members present and voting in each House and under the procedures set forth in section 153, a concurrent resolution approving the extension of such authority, and such resolution does not name such country as being excluded from such authority. Such authority shall cease to be effective with respect to any country named in such concurrent resolution on the date of the adoption of such concurrent resolution. If before the end of such 60-day period, a concurrent resolution approving the extension of such authority is not adopted by the House and Senate, but both the House and Senate vote on the question of final passage of such a concurrent resolution and—

(A) both the House and the Senate fail to pass such a concurrent resolution, the authority granted by subsection (c) (1) shall cease to be effective with respect to all countries on the date of the vote on the question of final passage by the House which votes last;

(B) both the House and the Senate pass such a concurrent resolution which names such country as being excluded from such authority, such authority shall cease to be effective with respect to such country at the end of such 60-day period; or

(C) one House fails to pass such a concurrent resolution and the other House passes such a concurrent resolution which names such country as being excluded from such authority, such authority shall cease to be effective with respect to such country at the end of such 60-day period.

(4) If the President recommends under paragraph (1) the extension of the waiver authority granted by subsection (c) (1), and at the end of the 60-day period referred to in paragraph (3) the House of Representatives and the Senate have not adopted a concurrent resolution approving the extension of such authority and subparagraph (A) of paragraph (3) does not apply, such authority shall continue in effect until the end of the 12-month period following the end of the 18-month period referred to in subsection (c) (1) with respect to any country (except for any country with respect to which such authority was not extended by reason of the application of subparagraph (B) or (C) of paragraph (2) or subparagraph (B) or (C) of paragraph (3)), unless before the end of the 45-day period following such 60-day period either the House of Representatives or the Senate adopts, by an affirmative vote of a majority of the Members present and voting in that House and under the procedures set forth in section 153, a resolution disapproving the extension of such authority generally or with respect to such country specifically. Such authority shall cease to be effective with respect to all countries on the date of the adoption by either House before the end of such 45-day period of a resolution disapproving the extension of such authority, and shall cease to be effective with respect to any country on the date of the adoption by either House before the end of such 45-day period of a resolution disapproving the extension of such authority with respect to such country.

(5) If the waiver authority granted by subsection (c) has been extended under paragraph (3) or (4) for any country for the 12-month period referred to in such paragraphs, and the President determines that the further extension of such authority will substantially promote the objectives of this section, he may recommend further extensions of such authority for successive 12-month periods. Any such recommendations shall—

(A) be made not later than 30 days before the expiration of such authority;

(B) be made in a document transmitted to the House of Representatives and the Senate setting forth his reasons for recommending the extension of such authority; and

(C) include, for each country with respect to which a waiver granted under subsection (c) is in effect, a determination that continuation of the waiver applicable to that country will substantially promote the objectives of this section, and a statement setting forth his reasons for such determination.

If the President recommends the further extension of such authority, such authority shall continue in effect until the end of the 12-month period following the end of the previous 12-month extension with respect to any country (except for any country with respect to which such authority has not been extended under this subsection), unless before the end of the 60-day period following such previous 12-month extension, either the House of Representatives or the Senate adopts, by an affirmative vote of a majority of the Members present and voting in that House and under the procedures set forth in section 153, a resolution disapproving the extension of such authority generally or with respect to such country specifically. Such authority shall cease to be effective with respect to all countries on the date of the adoption by either House before the end of such 60-day period of a resolution disapproving the extension of such authority, and shall cease to be effective with respect to any country on the date of the adoption by either House before the end of such 60-day period of a resolution disapproving the extension of such authority with respect to such country.

(e) This section shall not apply to any country the products of which are eligible for the rates set forth in rate column numbered 1 of the Tariff Schedules of the United States ²³ on the date of the enactment of this Act.

Sec. 403. United States Personnel Missing in Action in Southeast Asia.

(a) Notwithstanding any other provision of law, if the President determines that a nonmarket economy country is not cooperating with the United States—

(1) to achieve a complete accounting of all United States military and civilian personnel who are missing in action in Southeast Asia,

(2) to repatriate such personnel who are alive, and

(3) to return the remains of such personnel who are dead to the United States,

then, during the period beginning with the date of such determination and ending on the date on which the President determines such country is cooperating with the United States, he may provide that—

(A) the products of such country may not receive nondiscriminatory treatment,

(B) such country may not participate, directly or indirectly, in any program under which the United States extends credit, credit guarantees, or investment guarantees, and

(C) no commercial agreement entered into under this title between such country and the United States will take effect.

(b) This section shall not apply to any country the products of which are eligible for the rates set forth in rate column numbered 1 of the Tariff Schedules of the United States ²³ on the date of the enactment of this Act.

Sec. 404. Extension of Nondiscriminatory Treatment.

(a) Subject to the provisions of section 405(c), the President may by proclamation extend nondiscriminatory treatment to the products

²³ 19 U.S.C. 1202.

of a foreign country which has entered into a bilateral commercial agreement referred to in section 405.

(b) The application of nondiscriminatory treatment shall be limited to the period of effectiveness of the obligations of the United States to such country under such bilateral commercial agreement. In addition, in the case of any foreign country receiving nondiscriminatory treatment pursuant to this title which has entered into an agreement with the United States regarding the settlement of lend-lease reciprocal aid and claims, the application of such nondiscriminatory treatment shall be limited to periods during which such country is not in arrears on its obligations under such agreement.

(c) The President may at any time suspend or withdraw any extension of nondiscriminatory treatment to any country pursuant to subsection (a), and thereby cause all products of such country to be dutiable at the rates set forth in rate column numbered 2 of the Tariff Schedules for the United States.²³

Sec. 405. Authority to Enter Into Commercial Agreements.

(a) Subject to the provisions of subsections (b) and (c) of this section, the President may authorize the entry into force of bilateral commercial agreements providing nondiscriminatory treatment to the products of countries heretofore denied such treatment whenever he determines that such agreements with such countries will promote the purposes of this Act and are in the national interest.

(b) Any such bilateral commercial agreement shall—

(1) be limited to an initial period specified in the agreement which shall be no more than 3 years from the date the agreement enters into force; except that it may be renewable for additional periods, each not to exceed 3 years; if—

(A) a satisfactory balance of concessions in trade and services has been maintained during the life of such agreement, and

(B) the President determines that actual or foreseeable reductions in United States tariffs and nontariff barriers to trade resulting from multilateral negotiations are satisfactorily reciprocated by the other party to the bilateral agreement;

(2) provide that it is subject to suspension or termination at any time for national security reasons, or that the other provisions of such agreement shall not limit the rights of any party to take any action for the protection of its security interests;

(3) include safeguard arrangements (A) providing for prompt consultations whenever either actual or prospective imports cause or threaten to cause, or significantly contribute to, market disruption and (B) authorizing the imposition of such import restrictions as may be appropriate to prevent such market disruption;

(4) if the other party to the bilateral agreement is not a party to the Paris Convention for the Protection of Industrial Property,²⁴ provide rights for United States nationals with respect to patents and trademarks in such country not less than the rights specified in such convention;

²⁴ 21 UST 1583.

(5) if the other party to the bilateral agreement is not a party to the Universal Copyright Convention,²⁵ provide rights for United States nationals with respect to copyrights in such country not less than the rights specified in such convention;

(6) in the case of an agreement entered into or renewed after the date of the enactment of this Act, provide arrangements for the protection of industrial rights and processes;

(7) provide arrangements for the settlement of commercial differences and disputes;

(8) in the case of an agreement entered into or renewed after the date of the enactment of this Act, provide arrangements for the promotion of trade, which may include those for the establishment or expansion of trade and tourist promotion offices, for facilitation of activities of governmental commercial officers, participation in trade fairs and exhibits, and the sending of trade missions, and for facilitation of entry, establishment, and travel of commercial representatives;

(9) provide for consultations for the purpose of reviewing the operation of the agreement and relevant aspects of relations between the United States and the other party; and

(10) provide such other arrangements of a commercial nature as will promote the purposes of this Act.

(c) An agreement referred to in subsection (a), and a proclamation referred to in section 404(a) implementing such agreement, shall take effect only if (1) approved by the Congress by the adoption of a concurrent resolution referred to in section 151, or (2) in the case of an agreement entered into before the date of the enactment of this Act and a proclamation implementing such agreement, a resolution of disapproval referred to in section 152 is not adopted during the 90-day period specified by section 407(c) (2).

Sec. 406. Market Disruption.

(a) (1) Upon the filing of a petition by an entity described in section 201(a) (1), upon request of the President or the Special Representative for Trade Negotiations, upon resolution of either the Committee on Ways and Means of the House of Representatives or the Committee on Finance of the Senate, or on its own motion, the International Trade Commission (hereafter in this section referred to as the "Commission") shall promptly make an investigation to determine, with respect to imports of an article which is the product of a Communist country, whether market disruption exists with respect to an article produced by a domestic industry.

(2) The provisions of subsections (a) (2), (b) (3), and (c) of section 201 shall apply with respect to investigations by the Commission under paragraph (1).

(3) The Commission shall report to the President its determination with respect to each investigation under paragraph (1) and the basis therefor and shall include in each report any dissenting or separate views. If the Commission finds, as a result of its investigation, that market disruption exists with respect to an article produced by a

²⁵ 6 UST 2731.

domestic industry, it shall find the amount of the increase in, or imposition of, any duty or other import restriction on such article which is necessary to prevent or remedy such market disruption and shall include such finding in its report to the President. The Commission shall furnish to the President a transcript of the hearings and any briefs which may have been submitted in connection with each investigation.

(4) The report of the Commission of its determination with respect to an investigation under paragraph (1) shall be made at the earliest practicable time, but not later than 3 months after the date on which the petition is filed (or the date on which the request or resolution is received or the motion is adopted, as the case may be). Upon making such report to the President, the Commission shall also promptly make public such report (with the exception of information which the Commission determines to be confidential) and shall cause a summary thereof to be published in the Federal Register.

(b) For purposes of sections 202 and 203, an affirmative determination of the Commission under subsection (a) shall be treated as an affirmative determination under section 201(b), except that—

(1) the President may take action under sections 202 and 203 only with respect to imports from the country or countries involved of the article with respect to which the affirmative determination was made, and

(2) if such action consists of, or includes, an orderly marketing agreement, such agreement shall be entered into within 60 days after the import relief determination date.

(c) If, at any time, the President finds that there are reasonable grounds to believe, with respect to imports of an article which is the product of a Communist country, that market disruption exists with respect to an article produced by a domestic industry, he shall request the Commission to initiate an investigation under subsection (a). If the President further finds that emergency action is necessary, he may take action under sections 202 and 203 as if an affirmative determination of the Commission had been made under subsection (a). Any action taken by the President under the preceding sentence shall cease to apply (1) if a negative determination is made by the Commission under subsection (a) with respect to imports of such article, on the day on which the Commission's report of such determination is submitted to the President, or (2) if an affirmative determination is made by the Commission under subsection (a) with respect to imports of such article, on the day on which the action taken by the President pursuant to such determination becomes effective.

(d)(1) A petition may be filed with the President by an entity described in section 201(a)(1) requesting the President to initiate consultations provided for by the safeguard arrangements of any agreement entered into under section 405 with respect to imports of an article which is the product of the country which is the other party to such agreement.

(2) If the President determines that there are reasonable grounds to believe, with respect to imports of such article, that market disruption exists with respect to an article produced by a domestic industry, he shall initiate consultations with such country with respect to such imports.

(e) For purposes of this section—

(1) The term “Communist country” means any country dominated or controlled by communism.

(2) Market disruption exists within a domestic industry whenever imports of an article, like or directly competitive with an article produced by such domestic industry, are increasing rapidly, either absolutely or relatively, so as to be a significant cause of material injury, or threat thereof, to such domestic industry.

Sec. 407. Procedure for Congressional Approval or Disapproval of Extension of Nondiscriminatory Treatment and Presidential Reports.

(a) Whenever the President issues a proclamation under section 404 extending nondiscriminatory treatment to the products of any foreign country, he shall promptly transmit to the House of Representatives and to the Senate a document setting forth the proclamation and the agreement the proclamation proposes to implement, together with his reasons therefor.

(b) The President shall transmit to the House of Representatives and the Senate a document containing the initial report submitted by him under section 402(b) or 409(b) with respect to a nonmarket economy country. On or before December 31 of each year, the President shall transmit to the House of Representatives and the Senate, a document containing the report required by section 402(b) or 409(b) as the case may be, to be submitted on or before such December 31.

(c)(1) In the case of a document referred to in subsection (a) (other than a document to which paragraph (2) applies), the proclamation set forth therein may become effective and the agreement set forth therein may enter into force and effect only if the House of Representatives and the Senate adopt, by an affirmative vote of a majority of those present and voting in each House, a concurrent resolution of approval (under the procedures set forth in section 151) of the extension of nondiscriminatory treatment to the products of the country concerned.

(2) In the case of a document referred to in subsection (a) which sets forth an agreement entered into before the date of the enactment of this Act and a proclamation implementing such agreement, such proclamation may become effective and such agreement may enter into force and effect after the close of the 90-day period beginning on the day on which such document is delivered to the House of Representatives and to the Senate, unless during such 90-day period either the House of Representatives or the Senate adopts, by an affirmative vote of a majority of those present and voting in that House, a resolution of disapproval (under the procedures set forth in section 152) of the extension of nondiscriminatory treatment to the products of the country concerned.

(3) In the case of a document referred to in subsection (b) which contains a report submitted by the President under section 402(b) or 409(b) with respect to a nonmarket economy country, if, before the close of the 90-day period beginning on the day on which such document is delivered to the House of Representatives and to the Senate, either the House of Representatives or the Senate adopts, by an affirmative vote of a majority of those present and voting in that House, a

resolution of disapproval (under the procedures set forth in section 152) of the report submitted by the President with respect to such country, then, beginning with the day after the date of the adoption of such resolution of disapproval, (A) nondiscriminatory treatment shall not be in force with respect to the products of such country, and the products of such country shall be dutiable at the rates set forth in rate column numbered 2 of the Tariff Schedules of the United States,²⁵ (B) such country may not participate in any program of the Government of the United States which extends credit or credit guarantees or investment guarantees, and (C) no commercial agreement may thereafter be concluded with such country under this title.

Sec. 408. Payment by Czechoslovakia of Amounts Owed United States Citizens and Nationals.

(a) The arrangement initiated on July 5, 1974 with respect to the settlement of the claims of citizens and nationals of the United States against the Government of Czechoslovakia shall be renegotiated and shall be submitted to the Congress as part of any agreement entered into under this title with Czechoslovakia.

(b) The United States shall not release any gold belonging to Czechoslovakia and controlled directly or indirectly by the United States pursuant to the provisions of the Paris Reparations Agreement of January 24, 1946,²⁶ or otherwise, until such agreement has been approved by the Congress.

Sec. 409. Freedom to Emigrate to Join a Very Close Relative in the United States.

(a) To assure the continued dedication of the United States to the fundamental human rights and welfare of its own citizens, and notwithstanding any other provision of law, on or after the date of the enactment of this Act, no nonmarket economy country shall participate in any program of the Government of the United States which extends credits or credit guarantees or investment guarantees, directly or indirectly, and the President of the United States shall not conclude any commercial agreement with any such country, during the period beginning with the date on which the President determines that such country—

(1) denies its citizens the right or opportunity to join permanently through emigration, a very close relative in the United States, such as a spouse, parent, child, brother, or sister;

(2) imposes more than a nominal tax on the visas or other documents required for emigration described in paragraph (1); or

(3) imposes more than a nominal tax, levy, fine, fee, or other charge on any citizen as a consequence of the desire of such citizen to emigrate as described in paragraph (1),

and ending on the date on which the President determines that such country is no longer in violation of paragraph (1), (2), or (3).

(b) After the date of the enactment of this Act, (A) a nonmarket economy country may participate in any program of the Government of the United States which extends credits or credit guarantees or investment guarantees, and (B) the President may conclude a commercial agreement with such country, only after the President has

²⁵ 61 Stat. 3157.

submitted to the Congress a report indicating that such country is not in violation of paragraph (1), (2), or (3) of subsection (a). Such report with respect to such country shall include information as to the nature and implementation of its laws and policies and restrictions or discrimination applied to or against persons wishing to emigrate to the United States to join close relatives. The report required by this subsection shall be submitted initially as provided herein and, with current information, on or before each June 30 and December 31 thereafter, so long as such credits or guarantees are extended or such agreement is in effect.

(c) This section shall not apply to any country the products of which are eligible for the rates set forth in rate column numbered 1 of the Tariff Schedules of the United States²² on the date of enactment of this Act.

(d) During any period that a waiver is in effect with respect to any nonmarket economy country under section 402(c), the provisions of subsections (a) and (b) shall not apply with respect to such country.

Sec. 410. East-West Trade Statistics Monitoring System.

The International Trade Commission shall establish and maintain a program to monitor imports of articles into the United States from nonmarket economy countries and exports of articles from the United States to nonmarket economy countries. To the extent feasible, the Commission shall coordinate such program with any relevant data gathering programs presently conducted by the Secretary of Commerce. The Secretary of Commerce shall provide the Commission with any information which, in the determination of the Commission, is necessary to carry out this section. The Commission shall publish a detailed summary of the data collected under the East-West Trade Statistics Monitoring System not less frequently than once each calendar quarter and shall transmit such publication to the East-West Foreign Trade Board and to Congress. Such publication shall include data on the effect of such imports, if any, on the production of like, or directly competitive, articles in the United States and on employment within the industry which produces like, or directly competitive, articles in the United States.

Sec. 411. East-West Foreign Trade Board.

(a) The President shall establish an East-West Foreign Trade Board (hereinafter referred to as the "Board") to monitor trade between persons and agencies of the United States Government and nonmarket economy countries or instrumentalities of such countries to insure that such trade will be in the national interest of the United States.

(b)(1) Any person who exports technology vital to the national interest of the United States to a nonmarket economy country or an instrumentality of such country, and any agency of the United States which provides credits, guarantees or insurance to such country or such instrumentality in an amount in excess of \$5,000,000 during any calendar year, shall file a report with the Board in such form and manner as the Board requires which describes the nature and terms of such export or such provision.

(2) For purposes of paragraph (1), if the total amount of credits, guarantees and insurance which an agency of the United States provides to all nonmarket economy countries and the instrumentalities of such countries exceeds \$5,000,000 during a calendar year, then all subsequent provisions of credits, guarantees or insurance in any amount, during such year shall be reported to the Board under the provisions of paragraph (1).

(c) The Board shall submit to Congress a quarterly report on trade between the United States and nonmarket economy countries and instrumentalities of such countries. Such report shall include a review of the status of negotiations of bilateral trade agreements between the United States and such countries under this title, the activities of joint trade commissions created pursuant to such agreements, the resolution of commercial disputes between the United States and such countries, any exports from such countries which have caused disruption of United States markets, and recommendations for the promotion of east-west trade in the national interest of the United States.

TITLE V—GENERALIZED SYSTEM OF PREFERENCES

Sec. 501. Authority to Extend Preferences.

The President may provide duty-free treatment for any eligible article from any beneficiary developing country in accordance with the provisions of this title. In taking any such action, the President shall have due regard for—

(1) the effect such action will have on furthering the economic development of developing countries;

(2) the extent to which other major developed countries are undertaking a comparable effort to assist developing countries by granting generalized preferences with respect to imports of products of such countries; and

(3) the anticipated impact of such action on United States producers of like or directly competitive products.

Sec. 502. Beneficiary Developing Country.

(a) (1) For purposes of this title, the term "beneficiary developing country" means any country with respect to which there is in effect an Executive order by the President of the United States designating such country as a beneficiary developing country for purposes of this title. Before the President designates any country as a beneficiary developing country for purposes of this title, he shall notify the House of Representatives and the Senate of his intention to make such designation, together with the considerations entering into such decision.

(2) If the President has designated any country as a beneficiary developing country for purposes of this title, he shall not terminate such designation (either by issuing an Executive order for that purpose or by issuing an Executive order which has the effect of terminating such designation) unless, at least 60 days before such termination, he has notified the House of Representatives and the Senate and has notified such country of his intention to terminate such designation, together with the considerations entering into such decision.

(3) For purposes of this title, the term "country" means any foreign country, any overseas dependent territory or possession of a for-

eign country, or the Trust Territory of the Pacific Islands. In the case of an association of countries which is a free trade area or customs union, the President may by Executive order provide that all members of such association other than members which are barred from designation under subsection (b) shall be treated as one country for purposes of this title.

(b) No designation shall be made under this section with respect to any of the following:

Australia	Japan
Austria	Monaco
Canada	New Zealand
Czechoslovakia	Norway
European Economic Community member states	Poland
Finland	Republic of South Africa
Germany (East)	Sweden
Hungary	Switzerland
Iceland	Union of Soviet Socialist Republics

In addition, the President shall not designate any country a beneficiary developing country under this section—

(1) if such country is a Communist country, unless (A) the products of such country receive nondiscriminatory treatment, (B) such country is a contracting party to the General Agreement on Tariffs and Trade and a member of the International Monetary Fund, and (C) such country is not dominated or controlled by international communism;

(2) if such country is a member of the Organization of Petroleum Exporting Countries, or a party to any other arrangement of foreign countries, and such country participates in any action pursuant to such arrangement the effect of which is to withhold supplies of vital commodity resources from international trade or to raise the price of such commodities to an unreasonable level and to cause serious disruption of the world economy; withhold supplies of vital commodity resources from international trade or to raise the price of such commodities to an unreasonable level which causes serious disruptions of the world economy;

(3) if such country affords preferential treatment to the products of a developed country, other than the United States, which has, or is likely to have, a significant adverse effect on United States commerce, unless the President has received assurances satisfactory to him that such preferential treatment will be eliminated before January 1, 1976, or that action will be taken before January 1, 1976, to assure that there will be no such significant adverse effect, and he reports those assurances to the Congress;

(4) if such country—

(A) has nationalized, expropriated, or otherwise seized ownership or control of property owned by a United States citizen or by a corporation, partnership, or association which is 50 percent or more beneficially owned by United States citizens,

(B) has taken steps to repudiate or nullify an existing contract or agreement with a United States citizen or a corporation, partnership, or association which is 50 percent or

more beneficially owned by United States citizens, the effect of which is to nationalize, expropriate, or otherwise seize ownership or control of property so owned, or

(C) has imposed or enforced taxes or other exactions, restrictive maintenance or operational conditions, or other measures with respect to property so owned, the effect of which is to nationalize, expropriate, or otherwise seize ownership or control of such property,

unless—

(D) the President determines that—

(i) prompt, adequate, and effective compensation has been or is being made to such citizen, corporation, partnership, or association,

(ii) good faith negotiations to provide prompt, adequate, and effective compensation under the applicable provisions of international law are in progress, or such country is otherwise taking steps to discharge its obligations under international law with respect to such citizen, corporation, partnership, or association, or

(iii) a dispute involving such citizen, corporation, partnership, or association over compensation for such a seizure has been submitted to arbitration under the provisions of the Convention for the Settlement of Investment Disputes, or in another mutually agreed upon forum, and

promptly furnishes a copy of such determination to the Senate and House of Representatives;

(5) if such country does not take adequate steps to cooperate with the United States to prevent narcotic drugs and other controlled substances (as listed in the schedules in section 202 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 812)) produced, processed, or transported in such country from entering the United States unlawfully;

(6) if such country fails to act in good faith in recognizing as binding or in enforcing arbitral awards in favor of United States citizens or a corporation, partnership or association which is 50 percent or more beneficially owned by United States citizens, which have been made by arbitrators appointed for each case or by permanent arbitral bodies to which the parties involved have submitted their dispute; and

(7)²⁷ if such country aids or abets, by granting sanctuary from prosecution to, any individual or group which has committed an act of international terrorism.

Paragraphs (4), (5), (6), and (7) shall not prevent the designation of any country as a beneficiary developing country under this section if the President determines that such designation will be in the national economic interest of the United States and reports such determination to the Congress with his reasons therefor.

(c) In determining whether to designate any country a beneficiary developing country under this section, the President shall take into account—

(1) an expression by such country of its desire to be so designated;

²⁷ Paragraph (7) was added by Sec. 1802 of Public Law 94-455 (90 Stat. 1763).

(2) the level of economic development of such country, including its per capita gross national product, the living standards of its inhabitants, and any other economic factors which he deems appropriate;

(3) whether or not the other major developed countries are extending generalized preferential tariff treatment to such country; and

(4) the extent to which such country has assured the United States it will provide equitable and reasonable access to the markets and basic commodity resources of such country.

(d) General headnote 3(a) to the Tariff Schedules of the United States (19 U.S.C. 1202) (relating to products of insular possessions) is amended by adding at the end thereof the following new paragraph:

“(iii) Subject to the limitations imposed under sections 503(b) and 504(c) of the Trade Act of 1974, articles designated eligible articles under section 503 of such Act which are imported from an insular possession of the United States shall receive duty treatment no less favorable than the treatment afforded such articles imported from a beneficiary developing country under title V of such Act.”

(e) The President may exempt from the application of paragraph (2) of subsection (b) any country during the period during which such country (A) is a party to a bilateral or multilateral trade agreement to which the United States is also a party if such agreement fulfills the negotiating objectives set forth in section 108 of assuring the United States fair and equitable access at reasonable prices to supplies of articles of commerce important to the economic requirements of the United States and (B) is not in violation of such agreement by action denying the United States such fair and equitable access.

Sec. 503. Eligible Articles.

(a) The President shall, from time to time, publish and furnish the International Trade Commission with lists of articles which may be considered for designation as eligible articles for purposes of this title. Before any such list is furnished to the Commission, there shall be in effect an Executive order under section 502 designating beneficiary developing countries. The provisions of sections 131, 132, 133, and 134 of this Act shall be complied with as though action under section 501 were action under section 101 of this Act to carry out a trade agreement entered into under section 101. After receiving the advice of the Commission with respect to the listed articles, the President shall designate those articles he considers appropriate to be eligible articles for purposes of this title by Executive order.

(b) The duty-free treatment provided under section 501 with respect to any eligible article shall apply only—

(1) to an article which is imported directly from a beneficiary developing country into the customs territory of the United States; and

(2) (A) if the sum of (i) the cost or value of the materials produced in the beneficiary developing country plus (ii) the direct costs of processing operations performed in such beneficiary developing country is not less than 35 percent of the appraised value of such article at the time of its entry into the customs territory of the United States; or

(B) if the sum of (i) the cost or value of the materials produced in 2 or more countries which are members of the same association of countries which is treated as one country under section 502(a) (3), plus (ii) the direct costs of processing operations performed in such countries is not less than 50 percent of the appraised value of such article at the time of its entry into the customs territory of the United States.

For purposes of paragraph (2)(A), the term "country" does not include an association of countries which is treated as one country under section 502(a) (3) but does include a country which is a member of any such association. The Secretary of the Treasury shall prescribe such regulations as may be necessary to carry out this subsection.

(c) (1) The President may not designate any article as an eligible article under subsection (a) if such article is within one of the following categories of import-sensitive articles—

(A) textile and apparel articles which are subject to textile agreements,

(B) watches,

(C) import-sensitive electronic articles,

(D) import-sensitive steel articles,

(E) footwear articles specified in items 700.05 through 700.27, 700.29 through 700.53, 700.55.23 through 700.55.75, and 700.60 through 700.80 of the Tariff Schedules of the United States,

(F) import-sensitive semimanufactured and manufactured glass products, and

(G) any other articles which the President determines to be import-sensitive in the context of the Generalized System of Preferences.

(2) No article shall be an eligible article for purposes of this title for any period during which such article is the subject of any action proclaimed pursuant to section 203 of this Act or section 232 or 351 of the Trade Expansion Act of 1962.

Sec. 504. Limitations on Preferential Treatment.

(a) The President may withdraw, suspend, or limit the application of the duty-free treatment accorded under section 501 with respect to any article or with respect to any country; except that no rate of duty may be established in respect of any article pursuant to this section other than the rate which would apply but for this title. In taking any action under this subsection, the President shall consider the factors set forth in sections 501 and 502(c).

(b) The President shall, after complying with the requirements of section 502(a) (2), withdraw or suspend the designation of any country as a beneficiary developing country if, after such designation, he determines that as the result of changed circumstances such country would be barred from designation as a beneficiary developing country under section 502(b). Such country shall cease to be a beneficiary developing country on the day on which the President issues an Executive order revoking his designation of such country under section 502.

(c) (1) Whenever the President determines that any country—

(A) has exported (directly or indirectly) to the United States during a calendar year a quantity of an eligible article having an appraised value in excess of an amount which bears the same ratio to \$25,000,000 as the gross national product of the United States

for the preceding calendar year, as determined by the Department of Commerce, bears to the gross national product of the United States for calendar year 1974, or

(B) except as provided in subsection (d), has exported (either directly or indirectly) to the United States a quantity of any eligible article equal to or exceeding 50 percent of the appraised value of the total imports of such article into the United States during any calendar year,

then, not later than 60 days after the close of such calendar year, such country shall not be treated as a beneficiary developing country with respect to such article, except that, if before such 60th day, the President determines and publishes in the Federal Register that, with respect to such country—

(i) there has been an historical preferential trade relationship between the United States and such country,

(ii) there is a treaty or trade agreement in force covering economic relations between such country and the United States, and

(iii) such country does not discriminate against, or impose unjustifiable or unreasonable barriers to, United States commerce, then he may designate, or continue the designation of, such country as a beneficiary developing country with respect to such article.

(2) A country which is no longer treated as a beneficiary developing country with respect to an eligible article by reason of this subsection may be redesignated, subject to the provisions of section 502, a beneficiary developing country with respect to such article if imports of such article from such country did not exceed the limitations in paragraph (1) of this subsection during the preceding calendar year.

(d) Subsection (c) (1) (B) does not apply with respect to any eligible article if a like or directly competitive article is not produced on the date of enactment of this Act in the United States.

(e) No action pursuant to section 501 may affect any tariff duty imposed by the Legislature of Puerto Rico pursuant to section 319 of the Tariff Act of 1930 (19 U.S.C. sec. 1319) on coffee imported into Puerto Rico.

Sec. 505. Time Limit on Title; Comprehensive Review.

(a) No duty-free treatment under this title shall remain in effect after the date which is 10 years after the date of the enactment of this Act.

(b) On or before the date which is 5 years after the date of the enactment of this Act, the President shall submit to the Congress a full and complete report of the operation of this title.

TITLE VI—GENERAL PROVISIONS

Sec. 601. Definitions.

For purposes of this Act—

(1) The term “duty” includes the rate and form of any import duty, including but not limited to tariff-rate quotas.

(2) The term “other import restriction” includes a limitation, prohibition, charge, and exaction other than duty, imposed on importation or imposed for the regulation of importation. The term does not include any orderly marketing agreement.

(3) The term "ad valorem" includes ad valorem equivalent. Whenever any limitation on the amount by which or to which any rate of duty may be decreased or increased pursuant to a trade agreement is expressed in terms of an ad valorem percentage, the ad valorem amount taken into account for purposes of such limitation shall be determined by the President on the basis of the value of imports of the articles concerned during the most recent representative period.

(4) The term "ad valorem equivalent" means the ad valorem equivalent of a specific rate or, in the case of a combination of rates including a specific rate, the sum of the ad valorem equivalent of the specific rate and of the ad valorem rate. The ad valorem equivalent shall be determined by the President on the basis of the value of imports of the article concerned during the most recent representative period. In determining the value of imports, the President shall utilize, to the maximum extent practicable, the standards of valuation contained in section 402 or 402a of the Tariff Act of 1930 (19 U.S.C. sec. 1401a or 1402) applicable to the article concerned during such representative period.

(5) An imported article is "directly competitive with" a domestic article at an earlier or later stage of processing, and a domestic article is "directly competitive with" an imported article at an earlier or later stage of processing, if the importation of the article has an economic effect on producers of the domestic article comparable to the effect of importation of articles in the same stage of processing as the domestic article. For purposes of this paragraph, the unprocessed article is at an earlier stage of processing.

(6) The term "modification", as applied to any duty or other import restriction, includes the elimination of any duty or other import restriction.

(7) The term "existing" means (A) when used, without the specification of any date, with respect to any matter relating to entering into or carrying out a trade agreement or other action authorized by this Act, existing on the day on which such trade agreement is entered into or such other action is taken; and (B) when used with respect to a rate of duty, the nonpreferential rate of duty (however established, and even though temporarily suspended by Act of Congress or otherwise) set forth in rate column numbered 1 of schedules 1 through 7 of the Tariff Schedules of the United States on the date specified or (if no date is specified) on the day referred to in clause (A).

(8) A product of a country or area is an article which is the growth, produce, or manufacture of such country or area.

(9) The term "nondiscriminatory treatment" means most-favored-nation treatment.

(10) The term "commerce" includes services associated with international trade.

Sec. 602. Relation to Other Laws. [Subsections (a) through (e) amend the Tariff Act of 1930 and the Trade Expansion Act of 1962.]

(f) All provisions of law (other than this Act, the Trade Expansion Act of 1962, and the Trade Agreements Extension Act of 1951) in effect after the date of enactment of this Act, referring to section 350 of the Tariff Act of 1930, to that section as amended, to the Act entitled "An Act to amend the Tariff Act of 1930," approved June 12, 1934, to that Act as amended or to the Trade Expansion Act of 1962, or to agreements entered into, or proclamations issued, or actions taken under any of such provisions, shall be construed, unless clearly precluded by the context, to refer also to this Act, or to agreements entered into or proclamations or orders issued, pursuant to this Act.

Sec. 603. International Trade Commission.

(a) In order to expedite the performance of its functions under this Act, the International Trade Commission may conduct preliminary investigations, determine the scope and manner of its proceedings, and consolidate proceedings before it.

(b) In performing its functions under this Act, the Commission may exercise any authority granted to it under any other Act.

(c) The Commission shall at all times keep informed concerning the operation and effect of provisions relating to duties or other import restrictions of the United States contained in trade agreements entered into under the trade agreements program.

Sec. 604. Consequential Changes in the Tariff Schedules.

The President shall from time to time, as appropriate, embody in the Tariff Schedules of the United States the substance of the relevant provisions of this Act, and of other Acts affecting import treatment, and actions thereunder, including modification, continuance, or imposition of any rate of duty or other import restriction.

Sec. 605. Separability.

If any provision of this Act or the application of any provision to any circumstances or persons shall be held invalid, the validity of the remainder of this Act, and of the application of such provision to other circumstances or persons, shall not be affected thereby.

Sec. 606. International Drug Control.

The President shall submit a report to Congress at least once each calendar year listing those foreign countries in which narcotic drugs and other controlled substances (as listed under section 202 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 812)) are produced, processed, or transported for unlawful entry into the United States. Such report shall include a description of the measures such countries are taking to prevent such production, processing, or transport.

Sec. 607. Voluntary Limitations on Exports of Steel to the United States.

No person shall be liable for damages, penalties, or other sanctions under the Federal Trade Commission Act (15 U.S.C. 41-77) or the Antitrust Acts (as defined in section 4 of the Federal Trade Commission Act (15 U.S.C. 44)), or under any similar State law, on account of his negotiating, entering, into, participating in, or implementing an arrangement providing for the voluntary limitation on

exports of steel and steel products to the United States, or any modification or renewal of such an arrangement, if such arrangement or such modification or renewal—

- (1) was undertaken prior to the date of the enactment of this Act at the request of the Secretary of State or his delegate, and
- (2) ceases to be effective not later than January 1, 1975.

Sec. 608. Uniform Statistical Data on Imports, Exports, and Production.

(a) Section 484(e) of the Tariff Act of 1930 (19 U.S.C. 1484(e)) is amended to read as follows:

“(e) **STATISTICAL ENUMERATION.**—The Secretary of the Treasury, the Secretary of Commerce, and the United States International Trade Commission are authorized and directed to establish from time to time for statistical purposes an enumeration of articles in such detail as in their judgment may be necessary, comprehending all merchandise imported into the United States and exported from the United States, and shall seek, in conjunction with statistical programs for domestic production, to establish the comparability thereof with such enumeration of articles. All import entries and export declarations shall include or have attached thereto an accurate statement specifying, in terms of such detailed enumeration, the kinds and quantities of all merchandise imported and exported and the value of the total quantity of each kind of article.”

(b) In carrying out the responsibilities under section 484(e), Tariff Act of 1930 and other pertinent statutes, the Secretary of Commerce and the United States International Trade Commission shall conduct jointly a study of existing commodity classification systems with a view to identifying the appropriate principles and concepts which should guide the organization and development of an enumeration of articles which would result in comparability of United States import, production, and export data. The Secretary and the United States International Trade Commission shall submit a report to both Houses of Congress and to the President with respect to such study no later than August 1, 1975.

(c) In further connection with its responsibilities pursuant to subsections (a) and (b), the United States International Trade Commission shall undertake an investigation under section 332(g) of the Tariff Act of 1930²⁸ which would provide the basis for—

(1) a report on the appropriate concepts and principles which should underlie the formulation of an international commodity code adaptable for modernized tariff nomenclature purposes and for recording, handling, and reporting of transactions in national and international trade, taking into account how such a code could meet the needs of sound customs and trade reporting practices reflecting the interests of United States and other countries, such report to be submitted to both Houses of Congress and to the President as soon as feasible, but in any event, no later than June 1, 1975; and

(2) full and immediate participation by the United States International Trade Commission in the United States contribu-

²⁸ 19 U.S.C. 1332.

tion to technical work of the Harmonized Systems Committee under the Customs Cooperation Council to assure the recognition of the needs of the United States business community in the development of a Harmonized Code reflecting sound principles of commodity identification and specification and modern producing methods and trading practices, and, in carrying out such responsibilities, the Commission shall report to both Houses of Congress and to the President, as it deems appropriate.

(d) The President is requested to direct the appropriate agencies to cooperate fully with the Secretary of Commerce and the United States International Trade Commission in carrying out their responsibilities under subsections (a), (b), and (c).

(e) The amendment made by subsection (a) insofar as it relates to export declarations shall take effect on January 1, 1976.

Sec. 609. Submission of Statistical Data on Imports and Exports.

(a) Section 301 of title 13, United States Code, is amended—

(1) by inserting “(a)” before “The Secretary”; and

(2) by adding at the end thereof the following new subsections:

“(b) The Secretary shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate, on quarterly and cumulative bases, statistics on United States imports for consumption and United States exports by country and by product. Statistics on United States imports shall be submitted in accordance with the Tariff Schedules of the United States Annotated and general statistical headnote 1 thereof, in detail as follows:

“(1) net quantity;

“(2) United States customs value;

“(3) purchase price or its equivalent;

“(4) equivalent of arm's length value;

“(5) aggregate cost from port of exportation to United States port of entry;

“(6) a United States port of entry value comprised of (5) plus (4), if applicable, or, if not applicable, (5) plus (3); and

“(7) for transactions where (3) and (4) are equal, the total value of such transactions.

The data for paragraphs (1), (2), (3), (5), and (6) shall be reported separately for nonrelated and related party transactions, and shall also be reported as a total of all transactions.

“(c) In submitting any information under subsection (b) with respect to exports, the Secretary shall state separately from the total value of all exports—

“(1) (A) the value of agricultural commodities exported under the Agricultural Trade Development and Assistance Act of 1954, as amended; and

“(B) the total amount of all export subsidies paid to exporters by the United States under such Act for the exportation of such commodities; and

“(2) the value of goods exported under the Foreign Assistance Act of 1961.

“(d) To assist the Secretary to carry out the provisions of subsections (b) and (c)—

“(1) the Secretary of Agriculture shall furnish information to the Secretary concerning the value of agricultural commodities exported under provisions of the Agricultural Trade Development and Assistance Act of 1954, as amended, and the total amounts of all export subsidies paid to exporters by the United States under such Act for the exportation of such commodities; and

“(2) the Secretary of State shall furnish information to the Secretary concerning the value of goods exported under the provisions of the Foreign Assistance Act of 1961, as amended.”

(b) The amendments made by subsection (a) shall take effect on January 1, 1975.

Sec. 610. Gifts Sent from Insular Possessions.

(a) Section 321(a)(2)(A) of the Tariff Act of 1930 (19 U.S.C. 1321(a)(2)(A)) is amended by inserting after “United States” the following: “(\$20, in the case of articles sent as bona fide gifts from persons in the Virgin Islands, Guam, and American Samoa)”.

(b) The amendment made by subsection (a) shall apply with respect to articles entered, or withdrawn from warehouse, for consumption after the date of the enactment of this Act.

Sec. 611. Review of Protests in Import Surcharge Cases.

Notwithstanding the provisions of section 515(a) of the Tariff Act of 1930 (19 U.S.C. 1515(a)), in the case of any protest under section 514 of such Act involving the imposition of an import surcharge in the form of a supplemental duty pursuant to Presidential Proclamation 4074, dated August 17, 1971, the time for review and allowing or denying the protest shall not expire until five years from the date the protest was filed in accordance with such section 514.

Sec. 612. Trade Relations With Canada.

It is the sense of the Congress that the United States should enter into a trade agreement with Canada which will guarantee continued stability to the economies of the United States and Canada. In order to promote such economic stability, the President may initiate negotiations for a trade agreement with Canada to establish a free trade area covering the United States and Canada. Nothing in this section shall be construed as prior approval of any legislation which may be necessary to implement such a trade agreement.

Sec. 613. Limitation on Credit to Russia.

After the date of enactment of the Trade Act of 1974, no agency of the Government of the United States, other than the Commodity Credit Corporation, shall approve any loans, guarantees, insurance, or any combination thereof, in connection with exports to the Union of Soviet Socialist Republics in an aggregate amount in excess of \$300,000,000 without prior congressional approval as provided by law.

b. Executive Order 11888, November 24, 1975, 40 F.R. 55276¹

IMPLEMENTING THE GENERALIZED SYSTEM OF PREFERENCES

The Trade Act of 1974 authorizes the establishment of a Generalized System of Preferences for eligible articles imported from beneficiary developing countries.

The President has designated and may, by Executive order, designate certain countries as beneficiary developing countries, after having determined that such designations are in accordance with the provisions of the Trade Act of 1974 and after having provided the necessary information to the Congress, pursuant to Section 502 of the Trade Act of 1974. The necessary determinations have been made and the appropriate information has been furnished the Congress.

The President may, by Executive order, designate articles eligible for duty-free treatment after receiving advice from appropriate agencies, public comment, and the advice of the International Trade Commission. That advice has been received, as requested, by reference to item numbers, and statistical divisions thereof, contained in the Tariff Schedules of the United States, hereinafter sometimes referred to as TSUS.

Since not every article within the group represented by an item number of the Tariff Schedules of the United States is eligible for duty-free treatment under a Generalized System of Preferences, it is necessary to subdivide some of the existing item numbers.

In order to implement the Generalized System of Preferences and to remove expired provisions of the TSUS, relating to the Philippine Republic and the Trust Territory of the Pacific Islands, it is necessary to amend the Tariff Schedules of the United States, thus embodying the substance of relevant provisions of the Trade Act of 1974, and of actions taken thereunder, into the Tariff Schedules of the United States.

Now, Therefore, by virtue of the authority vested in me by the Constitution and statutes of the United States of America, including Title V and Section 604 of the Trade Act of 1974 (88 Stat. 2066, 19 U.S.C. 2461 *et seq.*, 88 Stat. 2073, 19 U.S.C. 2483), and as President of the United States of America, in order to designate additional beneficiary developing countries and eligible articles, and to implement a Generalized System of Preferences, it is hereby ordered as follows:

¹ Supersedes Executive Order 11844, March 24, 1975, 40 F.R. 13295. Annex I mentioned in this Executive Order may be found in 40 F.R. 55284. Further amendments to Annex I may be found in 41 F.R. 37086, Executive Order 11906, February 27, 1976, 41 F.R. 8758, amended Annexes II and III mentioned in the Executive Order. For the new text of Annex II, see 41 F.R. 8762 Annexes II and III were further amended by Executive Order 11934, August 30, 1976, 41 F.R. 37084, Executive Order 11960, January 19, 1977, 42 F.R. 4317 (subsequently revoked on February 25, 1977), Executive Order 11974, February 25, 1977, 42 F.R. 11230A, and Executive Order 12032, Dec. 27, 1977, 42 F.R. 64851. For new text of Annex III, see 42 F.R. 11230G. Executive Order 11906 provided that the provisions in that Order "shall become effective with respect to articles that are entered for consumption, or withdrawn from warehouse for consumption, on or after February 29, 1976." The amendments made to Annexes I, II, and III by Executive Order 11934 became effective "with respect to articles both: imported on or after January 1, 1976, and entered for consumption, or withdrawn from warehouse for consumption, on or after October 1, 1976." Executive Order 11974 provided that amendments made by it shall be effective "with respect to articles both: (1) imported on or after January 1, 1976, and (2) entered, or withdrawn from warehouse, for consumption on or after March 1, 1977." Executive Order 12032 provided that amendments made by it shall be effective "with respect to articles that are both: (1) imported on or after January 1, 1976, and (2) entered or withdrawn from warehouse for consumption, on or after January 1, 1978."

SECTION 1. The following expired headnotes and items for the products of the Philippine Republic and of the Trust Territory of the Pacific Islands are deleted from the Tariff Schedules of the United States:

Headnotes:

General headnote 3(c) ;
Headnotes 3 and 4, part 13, schedule 1 ;
Headnotes 1, 2, and 3, part 14, schedule 1 ;
Headnote 2, subpart B, part 14, schedule 1 ;
Headnote 2, part 2, schedule 3 ; and
Headnote 3, subpart A, part 7, schedule 7.

TSUS items:

170.22	170.37	170.68	176.07
170.23	170.42	170.70	176.08
170.24	170.43	170.74	176.09
170.26	170.44	170.75	176.10
170.27	170.47	170.76	176.11
170.29	170.48	175.10	176.12
170.31	170.49	175.11	176.13
170.33	170.62	175.12	745.21
170.34	170.63	176.05	745.22
170.36	170.64	176.06	

SEC. 2. The article descriptions, including superior headings, for TSUS items 175.09 and 176.04 are amended to read, respectively, "Copra" and "Coconut Oil".

SEC. 3. A column entitled "GSP" is added to the left of, and adjacent to, the column entitled "Item" on each page of schedules 1 through 7 of the TSUS. The designations "A" or "A*", as specified in general headnote 3(c) (ii) of the TSUS, as added by Section 9 of this Order, shall be placed in the column entitled "GSP" opposite the TSUS item number of each article which has been designated as an eligible article for purposes of the Generalized System of Preferences.

SEC. 4. In order to subdivide existing items for purposes of the Generalized System of Preferences, the Tariff Schedules of the United States are amended as provided in Annex I, attached hereto and made a part hereof.

SEC. 5. The articles, identified by item numbers of the Tariff Schedules of the United States, as modified by this Order, set forth in Annex II and Annex III,² attached hereto and made a part hereof, are designated, pursuant to Section 503 of the Trade Act of 1974 (88 Stat. 2069, 19 U.S.C. 2463), as eligible articles for purposes of the Generalized System of Preferences, and shall be given duty-free treatment as set forth in General Headnote 3(c) of the TSUS, as added by Section 9 of this Order.

SEC. 6. The designation "A" shall be inserted in the column entitled "GSP" of the TSUS, as modified by this Order, opposite the TSUS item numbers set forth in Annex II of this Order.

SEC. 7. The designation "A*" shall be inserted in the column entitled "GSP" of the TSUS, as modified by this Order, opposite the TSUS item numbers set forth in Annex III of this Order.

SEC. 8. The countries set forth in General Headnote 3(c) (i) of the TSUS, as added by Section 9 of this Order, are hereby designated as beneficiary developing countries.

SEC. 9. A new General Headnote 3(c) of the TSUS is hereby added as follows:

² See footnote 1 for citations to Annexes II and III in the Federal Register.

“(c) *Products of Countries Designated Beneficiary Developing Countries for Purposes of the Generalized System of Preferences (GSP)* :

“(i)³ The following countries and territories are designated beneficiary developing countries for purposes of the Generalized System of Preferences, provided for in Title V of the Trade Act of 1974 (88 Stat. 2066, 19 U.S.C. 2461 *et seq.*) :

“(a) *Independent Countries*

Afghanistan	Malawi
Angola	Malaysia
Argentina	Maldives Islands
Bahamas	Mali
Bahrain	Malta
Bangladesh	Mauritania
Barbados	Mauritius
Benin	Mexico
Bhutan	Morocco
Bolivia	Mozambique
Botswana	Nauru
Brazil	Nepal
Burma	Nicaragua
Burundi	Niger
Cameroon	Oman
Cape Verde	Pakistan
Central African Republic	Panama
Chad	Papua New Guinea
Chile	Paraguay
Colombia	Peru
Congo (Brazzaville)	Philippines
Costa Rica	Portugal
Cyprus	Republic of China
Dominican Republic	Romania
Egypt	Rwanda
El Salvador	Sao Tome and Principe
Equatorial Guinea	Senegal
Ethiopia	Sierra Leone
Fiji	Singapore
Gambia	Somalia
Ghana	Sri Lanka
Grenada	Sudan
Guatemala	Surinam
Guinea	Swaziland
Guinea Bissau	Syria
Guyana	Tanzania
Haiti	Thailand
Honduras	Togo
India	Tonga
Israel	Trinidad and Tobago
Ivory Coast	Tunisia
Jamaica	Turkey
Jordan	Upper Volta
Kenya	Uruguay
Korea, Republic of	Western Samoa
Lebanon	Yemen Arab Republic
Lesotho	Yugoslavia
Liberia	Zaire
Malagasy Republic	Zambia

³ General Headnote 3(c)(i) of the TSUS was amended by Sec. 5 of Executive Order 11934, August 30, 1976, 41 F.R. 37084.

“(b) Non-Independent Countries and Territories

Afars and Issas, French Territory of	Montserrat
the Antigua	Netherlands Antilles
Belize	New Caledonia
Bermuda	New Hebrides Condominium
British Indian Ocean Territory	Niue
British Solomon Islands	Norfolk Island
Brunei	Pitcairn Island
Cayman Islands	Portuguese Timor
Christmas Island (Australia)	Saint Christopher-Nevis-Anguilla
Cocos (Keeling) Islands	Saint Helena
Comora Islands	Saint Lucia
Cook Islands	Saint Vincent
Dominica	Seychelles
Falkland Islands (Malvinas) and	Spanish Sahara
Dependencies	Tokelau Islands
French Polynesia	Trust Territory of the Pacific Islands
Gibraltar	Turks and Caicos Islands
Gilbert Islands	Tuvalu
Heard Island and McDonald Islands	Virgin Islands, British
Hong Kong	Wallis and Futuna Islands
Macao	

“(ii) Articles for which the designations “A” or “A*” appear in the column entitled “GSP” of the schedules are those designated by the President to be eligible articles for purposes of the GSP pursuant to Section 503 of the Trade Act. The designation “A” signifies that all beneficiary developing countries are eligible for preferential treatment with respect to all articles provided for in the designated TSUS item, while the designation “A*” indicates that certain beneficiary developing countries, specifically enumerated in subdivision (c) (iii) of this headnote, are not eligible for such preferential treatment with regard to any article provided for in the designated TSUS item. Whenever an eligible article is imported into the customs territory of the United States directly from a country or territory listed in subdivision (c) (i) of this headnote, it shall receive duty-free treatment, unless excluded from such treatment by subdivision (c) (iii) of this headnote, provided that, in accordance with regulations promulgated by the Secretary of the Treasury:

“(A) The sum of (1) the cost or value of the materials produced in the beneficiary developing country, plus (2) the direct costs of processing operations performed in such country is not less than 35 percent of the appraised value of such article at the time of its entry into the customs territory of the United States; or

(B) The sum of (1) the cost or value of the material produced in two or more beneficiary developing countries which are members of the same association of countries which is treated as one country under Section 502(a) (3) of the Trade Act, plus (2) the direct cost of processing operations performed in such countries is not less than 50 percent of the appraised value of such article at the time of its entry into the customs territory of the United States;

“and provided further that, for the purpose of (A) above, the term “country” does not include an association of countries which is treated as one country under Section 502(a) (3) of the Trade Act, but does include a country which is a member of any such association.

"(iii)* The following designated eligible articles provided for in TSUS item numbers preceded by the designation "A*", if imported from a beneficiary developing country set opposite the TSUS item numbers listed below, are not entitled to the duty-free treatment provided for in subdivision (c) (ii) of this headnote:

"TSUS item number—country or territory

106.60—India	153.02—Dominican Republic
107.20—Argentina	153.28—Portugal
107.45—Brazil	154.40—Republic of China
107.48—Argentina, Brazil	155.20—Argentina, Brazil, Republic of
107.70—Haiti	China, Colombia, Dominican Republic,
110.45—Argentina	El Salvador, Guatemala, Guyana,
111.92—Philippine Republic	India, Jamaica, Nicaragua, Pan-
121.52—India	ama, Peru, Philippine Republic,
121.55—India	and Thailand
130.35—Brazil	155.35—Barbados
130.40—Mexico	156.35—Ivory Coast
130.63—Mexico	156.45—Dominican Republic
131.35—Hong Kong	161.15—Republic of China
132.55—Mexico	161.53—Syria
135.30—Mexico	161.69—Mexico
135.51—Mexico	166.40—Mexico
135.80—Nicaragua	168.15—Trinidad
135.90—Mexico	176.15—Brazil
136.00—Dominican Republic	176.33—Malaysia
136.80—Mexico	184.65—Republic of China
136.98—Dominican Republic	186.40—Mexico
136.99—Republic of China	192.85—Mexico
137.71—Mexico	200.91—Honduras
137.75—Costa Rica	202.62—Mexico
138.05—Mexico	203.20—Costa Rica
140.09—Thailand	206.47—Republic of China
140.10—Chile	206.60—Mexico
140.14—Thailand	206.98—Republic of China
140.20—Kenya	220.10—Portugal
140.21—Mexico	220.15—Portugal
140.25—Peru	220.20—Portugal
140.35—Turkey	220.25—Portugal
141.35—Turkey	220.35—Portugal
141.55—Dominican Republic	220.37—Portugal
141.70—Republic of China	220.41—Portugal
141.77—Mexico	220.48—Portugal
145.09—Dominican Republic	220.50—Portugal
145.52—Portugal	222.10—Hong Kong
145.53—Turkey	222.34—Philippine Republic
145.60—Republic of China	222.62—Philippine Republic
146.12—Argentina	240.02—Philippine Republic
146.22—Turkey	240.10—Panama
146.44—Philippine Republic	240.12—Republic of Korea
147.33—Jamaica	240.38—Philippine Republic
147.36—Republic of China	256.60—Republic of Korea
147.80—Philippine Republic	256.80—Mexico
147.85—Brazil	256.85—Mexico
148.72—Chile	274.00—Mexico
148.77—Republic of Korea	304.04—Philippine Republic
149.15—Dominican Republic	304.40—Thailand
149.50—Chile	304.48—Brazil
152.43—Dominican Republic	304.58—India
152.54—Brazil	305.20—India
152.72—Honduras	305.22—India

* General Headnote 3(c) (iii), as added by this Executive Order, was amended by Sec. 1 of Executive Order 11906, February 27, 1976, 41 F.R. 8758. Further amended by Executive Order 11934, August 30, 1976, 41 F.R. 37084, Executive Order 11960, January 19, 1977, 42 F.R. 4317, Executive Order 11974, February 25, 1977, 42 F.R. 11230A, and Executive Order 12032, December 27, 1977, 42 F.R. 64853.

"TSUS item number—country or territory—Continued

305.28—India	540.21—Mexico
305.30—Republic of China	540.47—Mexico
305.40—Philippine Republic	544.11—Republic of China
306.52—Peru	545.31—Republic of China
308.30—Republic of Korea	545.53—Mexico
316.50—Philippine Republic	545.65—Mexico
319.01—India	546.23—Republic of China
319.03—India	603.45—Bolivia
319.05—India	603.50—Botswana
319.07—India	605.66—Singapore
335.50—India	610.71—Republic of Korea
347.30—India	612.02—Mexico
355.04—Mexico	612.03—Chile
360.35—India	612.06—Chile, Peru, Yugoslavia, Zambia
360.82—Hong Kong	612.15—Mexico
370.17—Portugal	612.70—Chile
407.08—Dominican Republic	612.72—Chile
407.12—Romania	620.08—Mexico
408.40—Mexico	622.20—Malaysia
417.90—Malaysia	622.35—Hong Kong
418.78—Chile	624.02—Mexico
418.80—Mexico	624.42—Mexico
420.82—Israel	624.50—Republic of China
422.76—Mexico	626.42—Costa Rica
425.00—Republic of China	628.05—Mexico
425.84—Netherlands Antilles	628.10—Mexico
425.86—Brazil	628.40—Singapore
426.46—Mexico	640.10—Mexico
437.16—India	642.06—Hong Kong
437.64—Brazil	646.04—Republic of China
460.35—Republic of China	646.86—Hong Kong
460.60—India	646.98—Mexico
461.05—Israel	649.39—Israel
461.15—Bermuda	649.71—Republic of China
465.70—Argentina	650.79—India
473.46—Mexico	650.83—Hong Kong
473.48—Mexico	650.87—Hong Kong
473.52—Mexico	651.03—Hong Kong
473.56—Mexico	651.49—Republic of Korea
473.58—Mexico	652.50—Israel
473.62—Mexico	652.84—Mexico
473.66—Mexico	653.02—Republic of Korea
490.44—Hong Kong	653.03—Mexico
493.21—Republic of China	653.47—Republic of Korea
493.82—Mexico	653.49—Republic of China
494.40—Cayman	653.85—Republic of China
511.31—Mexico	653.93—Republic of China
511.51—Syria	656.20—Hong Kong
512.44—Mexico	657.90—Mexico
513.84—Republic of China	660.44—Mexico
514.11—Dominican Republic	672.10—Hong Kong
514.54—Mexico	674.56—Mexico
516.11—India	676.52—{ Hong Kong
516.24—India	{ Mexico
516.71—India	678.50—Republic of China
516.73—India	683.70—Hong Kong
516.74—India	683.80—Hong Kong
516.76—India	684.50—Hong Kong
516.94—India	685.24—Republic of China, Hong Kong,
517.24—Malagasy Republic	Republic of Korea and Singa-
518.41—Mexico	pore
520.35—Thailand	685.28—Republic of China
520.51—Brazil	685.90—Mexico
533.26—Romania	686.30—Republic of China
535.31—Mexico	687.30—Malaysia
	688.10—Republic of China
	688.12—Mexico

"TSUS item number—country or territory—Continued

688.40—Hong Kong	740.30—Hong Kong
692.27—Mexico	741.20—Hong Kong
696.35—Republic of China	745.08—Hong Kong
700.54—Hong Kong	748.12—Haiti
702.08—Hong Kong	748.40—Republic of China
702.20—Hong Kong	750.25—Hong Kong
702.45—Mexico	750.35—Republic of China
703.65—Mexico	750.65—Republic of Korea
703.75—Mexico	751.05—Republic of China
704.34—Republic of China	751.20—Republic of China
706.40—Hong Kong	755.30—Malta
711.30—Republic of China	760.65—Republic of China
713.07—Israel	771.05—Republic of China
713.15—Mexico	771.45—Republic of China
713.19—Mexico	772.03—Hong Kong
724.35—Hong Kong	772.35—Republic of China
726.70—Mexico	772.97—Hong Kong
730.27—Brazil	773.10—Hong Kong
730.29—Brazil	773.20—Republic of Korea
730.41—Brazil	774.60—Hong Kong
731.10—Republic of China	790.39—Republic of China
734.10—Republic of China	790.60—Republic of China
734.25—Hong Kong	790.70—Republic of Korea
734.30—Hong Kong	791.17—Argentina
734.34—Hong Kong	791.20—Brazil
734.51—Republic of China	791.25—Mexico
734.54—Republic of Korea	791.76—{ Republic of China
734.56—Haiti	{ Republic of Korea
734.87—Republic of China	791.80—Republic of China
735.11—Republic of China	792.22—India
737.40—Hong Kong	792.50—Philippine Republic
737.80—Hong Kong	792.60—Hong Kong
737.95—Hong Kong	792.75—Hong Kong"
740.10—Hong Kong	

SEC. 10. The provisions of this Order shall be effective with respect to articles that are both (1) imported, and (2) (a) entered for consumption or (b) withdrawn from warehouse for consumption on or after the effective date of this Order.

SEC. 11. Executive Order No. 11844 of March 24, 1975, is superseded.

SEC. 12. This Order shall be effective on January 1, 1976.

c. Executive Order 11854, April 24, 1975, 40 F.R. 18391

WAIVER UNDER THE TRADE ACT OF 1974 WITH RESPECT TO THE SOCIAL-
IST REPUBLIC OF ROMANIA

By virtue of the authority vested in me by section 402(c) (1) of the Trade Act of 1974 (Public Law 93-618, January 3, 1975; 88 Stat. 1978, 2057), and having made the report to the Congress required by that provision, I hereby waive the application of subsections (a) and (b) of section 402 of said Act with respect to the Socialist Republic of Romania.

(89)

d. Executive Order 11846, March 27, 1975, 40 F.R. 14291, as amended by Executive Order 11894, January 6, 1976, 41 F.R. 1041

ADMINISTRATION OF THE TRADE AGREEMENTS PROGRAM

By virtue of the authority vested in me by the Trade Act of 1974, hereinafter referred to as the Act (Public Law 93-618, 88 Stat. 1978), the Trade Expansion Act of 1962, as amended (19 U.S.C. 1801), Section 350 of the Tariff Act of 1930, as amended (19 U.S.C. 1351), and Section 301 of Title 3 of the United States Code, and as President of the United States it is hereby ordered as follows:

SECTION 1. *The Trade Agreements Program.* The "trade agreements program" includes all activities consisting of, or related to, the negotiation or administration of international agreements which primarily concern trade and which are concluded pursuant to the authority vested in the President by the Constitution, Section 350 of the Tariff Act of 1930, as amended, the Trade Expansion Act of 1962, as amended, or the Act.

SEC. 2. *The Special Representative for Trade Negotiations.*

(a) The Special Representative for Trade Negotiations, hereinafter referred to as the Special Representative, in addition to the functions conferred upon him by the Act, including Section 141 thereof, and in addition to the functions and responsibilities set forth in this Order, shall be responsible for such other functions as the President may direct.

(b) The Special Representative, except where otherwise expressly provided by statute, Executive order, or instructions of the President, shall be the chief representative of the United States for each negotiation under the trade agreements program and shall participate in other negotiations which may have a direct and significant impact on trade.

(c) The Special Representative shall prepare, for the President's transmission to Congress, the annual report on the trade agreements program required by Section 163(a) of the Act. At the request of the Special Representative, other agencies shall assist in the preparation of that report.

(d) The Special Representative, except where expressly otherwise provided or prohibited by statute, Executive order, or instructions of the President, shall be responsible for the proper administration of the trade agreements program, and may, as he deems necessary, assign to the head of any Executive agency or body the performance of his duties which are incidental to the administration of the trade agreements program.

(e) The Special Representative shall consult with the Trade Policy Committee in connection with the performance of his functions, including those established or delegated by this Order, and shall, as

appropriate, consult with other Federal agencies or bodies. With respect to the performance of his functions under Title IV of the Act, including those established or delegated by this Order, the Special Representative shall also consult with the East-West Foreign Trade Board.

(f) The Special Representative shall be responsible for the preparation and submission of any Proclamation which relates wholly or primarily to the trade agreements program. Any such Proclamation shall be subject to all the provisions of Executive Order No. 11030, as amended, except that such Proclamation need not be submitted to the Director of the Office of Management and Budget.

(g) The Secretary of State shall advise the Special Representative, and the Committee, on the foreign policy implications of any action under the trade agreements program. The Special Representative shall invite appropriate departments to participate in trade negotiations of particular interest to such departments, and the Department of State shall participate in trade negotiations which have a direct and significant impact on foreign policy.

SEC. 3. *The Trade Policy Committee.* (a) As provided by Section 242 of the Trade Expansion Act of 1962 (19 U.S.C. 1872), as amended by Section 602(b) of the Act, there is established the Trade Policy Committee, hereinafter referred to as the Committee. The Committee shall be composed of:

- (1) The Special Representative, who shall be Chairman.
- (2) The Secretary of State.
- (3) The Secretary of the Treasury.
- (4) The Secretary of Defense.
- (5) The Attorney General.
- (6) The Secretary of the Interior.
- (7) The Secretary of Agriculture.
- (8) The Secretary of Commerce.
- (9) The Secretary of Labor.
- (10) The Assistant to the President for Economic Affairs.
- (11) The Executive Director of the Council on International

Economic Policy.

Each member of the Committee may designate an officer of his agency, whose status is not below that of an Assistant Secretary, to serve in his stead, when he is unable to attend any meetings of the Committee. The Chairman, as he deems appropriate, may invite representatives from other agencies to attend the meetings of the Committee.

(b) The Committee shall have the functions conferred by the Trade Expansion Act of 1962, as amended, upon the inter-agency organization referred to in Section 242 thereof, as amended, the functions delegated to it by the provisions of this Order, and such other functions as the President may from time to time direct. Recommendations and advice of the Committee shall be submitted to the President by the Chairman.

(c) The recommendations made by the Committee under Section 242(b)(1) of the Trade Expansion Act of 1962, as amended, with respect to basic policy issues arising in the administration of the trade agreements program, as approved or modified by the President, shall guide the administration of the trade agreements program. The Special

Representative or any other officer who is chief representative of the United States in a negotiation in connection with the trade agreements program shall keep the Committee informed with respect to the status and conduct of negotiations and shall consult with the Committee regarding the basic policy issues arising in the course of negotiations.

(d) Before making recommendations to the President under Section 242(b) (2) of the Trade Expansion Act of 1962, as amended, the Committee shall, through the Special Representative, request the advice of the Adjustment Assistance Coordinating Committee, established by Section 281 of the Act.

(e) The Committee shall advise the President as to what action, if any, he should take under Section 337(g) of the Tariff Act of 1930, as amended by Section 341 of the Act, relating to unfair practices in import trade.

(f) The Trade Expansion Act Advisory Committee established by Section 4 of Executive Order No. 11075 of January 15, 1963, is abolished and all of its records are transferred to the Trade Policy Committee.

SEC. 4. *Trade Negotiations Under Title I of the Act.*

(a) The functions of the President under Section 102 of the Act concerning notice to, and consultation with, Congress, in connection with agreements on nontariff barriers to, and other distortions of, trade, are hereby delegated to the Special Representative.

(b) The Special Representative, after consultation with the Committee, shall prepare, for the President's transmission to Congress, all proposed legislation and other documents necessary or appropriate for the implementation of, or otherwise required in connection with, trade agreements; provided, however, that where implementation of an agreement on nontariff barriers to, and other distortions of, trade requires a change in a domestic law, the department or agency having the primary interest in the administration of such domestic law shall prepare and transmit to the Special Representative the proposed legislation necessary or appropriate for such implementation.

(c) The functions of the President under Section 131(c) of the Act with respect to advice of the International Trade Commission and under Section 132 of the Act with respect to advice of the departments of the Federal Government and other sources, are delegated to the Special Representative. The functions of the President under Section 133 of the Act with respect to public hearings in connection with certain trade negotiations are delegated to the Special Representative, who shall designate an interagency committee to hold and conduct any such hearings.

(d) The functions of the President under Section 135 of the Act with respect to advisory committees and, notwithstanding the provisions of any other Executive order, the functions of the President under the Federal Advisory Committee Act (86 Stat. 770, 5 U.S.C. App. I), except that of reporting annually to Congress, which are applicable to advisory committees under the Act are delegated to the Special Representative. In establishing and organizing general policy advisory committees or sector advisory committees under Section 135(c) of the Act, the Special Representative shall act through the Secretaries of Commerce, Labor and Agriculture, as appropriate.

(e) The functions of the President with respect to determining ad valorem amounts and equivalents pursuant to Sections 601 (3) and (4) of the Act are hereby delegated to the Special Representative. The International Trade Commission is requested to advise the Special Representative with respect to determining such ad valorem amounts and equivalents. The Special Representative shall seek the advice of the Commission and consult with the Committee with respect to the determination of such ad valorem amounts and equivalents.

(f) Advice of the International Trade Commission under Section 131 of the Act, and other advice or reports by the International Trade Commission to the President or the Special Representative, the release or disclosure of which is not specifically authorized or required by law, shall not be released or disclosed in any manner or to any extent not specifically authorized by the President or by the Special Representative.

SEC. 5. Import Relief and Market Disruption.

(a) The Special Representative is authorized to request from the International Trade Commission the information specified in Sections 202(d) and 203(i) (1) and (2) of the Act.

(b) The Secretary of the Treasury, in consultation with the Secretary of Commerce or the Secretary of Agriculture, as appropriate, is authorized to issue, under Section 203(g) of the Act, regulations governing the administration of any quantitative restrictions proclaimed in order to provide import relief and is authorized to issue, under Section 203(g) of the Act or 352(b) of the Trade Expansion Act of 1962, regulations governing the entry, or withdrawal from warehouses for consumption, of articles pursuant to any orderly marketing agreement.

(c) The Secretary of Commerce shall exercise primary responsibility for monitoring imports under any orderly marketing agreement.

SEC. 6. Unfair Trade Practices.

(a) The Special Representative, acting through an interagency committee which he shall designate for such purpose, shall provide the opportunity for the presentation of views, under Sections 301(d) (1) and 301(e) (1) of the Act, with respect to unfair or unreasonable foreign trade practices and with respect to the United States response thereto.

(b) The Special Representative shall provide for appropriate public hearings under Section 301(e) (2) of the Act; and, shall issue regulations concerning the filing of requests for, and the conduct of, such hearings.

(c) The Special Representative is authorized to request, pursuant to Section 301(e) (3) of the Act, from the International Trade Commission, its views as to the probable impact on the economy of the United States of any action under Section 301(a) of the Act.

SEC. 7. East-West Foreign Trade Board.

(a) In accordance with Section 411 of the Act, there is hereby established the East-West Foreign Trade Board, hereinafter referred to as the Board. The Board shall be composed of the following members and such additional members of the Executive branch as the President may designate:

- (1) The Secretary of State.
- (2) The Secretary of the Treasury.

- (3) The Secretary of Defense.¹
- (4) The Secretary of Agriculture.
- (5) The Secretary of Commerce.
- (6) The Special Representative for Trade Negotiations.
- (7) The Director of the Office of Management and Budget.
- (8) The Executive Director of the Council on International Economic Policy.
- (9) The President of the Export-Import Bank of the United States.
- (10) The Assistant to the President for Economic Affairs.

The President shall designate the Chairman and the Deputy Chairman of the Board. The President may designate an Executive Secretary, who shall be Chairman of a working group which will include membership from the agencies represented on the Board.

(b) The Board shall perform such functions as are required by Section 411 of the Act and such other functions as the President may direct.

(c) The Board is authorized to promulgate such rules and regulations as are necessary or appropriate to carry out its responsibilities under the Act and this Order.

(d) The Secretary of State shall advise the President with respect to determinations required to be made in connection with Sections 402 and 409 of the Act (dealing with freedom of emigration) and Section 403 (dealing with United States personnel missing in action in Southeast Asia), and shall prepare, for the President's transmission to Congress, the reports and other documents required by Sections 402 and 409 of the Act.

(e) The President's Committee on East-West Trade Policy, established by Executive Order No. 11789 of June 25, 1974, as amended by Section 6(d) of Executive Order No. 11808 of September 30, 1974, is abolished and all of its records are transferred to the Board.

SEC. 8. Generalized System of Preferences.

(a) The Special Representative, in consultation with the Secretary of State, shall be responsible for the administration of the generalized system of preferences under Title V of the Act.

(b) The Committee, through the Special Representative, shall advise the President as to which countries should be designated as beneficiary developing countries, and as to which articles should be designated as eligible articles for the purposes of the system of generalized preferences.

SEC. 9. Prior Executive Orders.

(a) Executive Order No. 11789 of June 25, 1974, and Section 6(d) of Executive Order No. 11808 of September 30, 1974, relating to the President's Committee on East-West Trade Policy are hereby revoked.

(b) (1) Sections 5(b), 7, and 8 of Executive Order No. 11075 of January 15, 1963, are hereby revoked effective April 3, 1975; (2) the remainder of Executive Order No. 11075, and Executive Order No. 11106 of April 18, 1963 and Executive Order No. 11113 of June 13, 1963, are hereby revoked.

¹ The Secretary of Defense was added to this list by Executive Order 11894, January 6, 1976, 41 F.R. 1041.

2. Trade Expansion Act of 1962, as amended

Public Law 87-794 [H.R. 11970], 76 Stat. 872; 19 U.S.C. 1801-1991, approved October 11, 1962, as amended by Public Law 88-205 [H.R. 7885], 77 Stat. 379, approved December 16, 1963; and by Public Law 93-618 [H.R. 10710], 88 Stat. 1978, approved January 3, 1975

TITLE I—SHORT TITLE AND PURPOSES

Sec. 101. Short Title

This Act may be cited as the "Trade Expansion Act of 1962".

Sec. 102. Statement of Purposes

The purposes of this Act are, through trade agreements affording mutual trade benefits—

(1) to stimulate the economic growth of the United States and maintain and enlarge foreign markets for the products of United States agriculture, industry, mining, and commerce;

(2) to strengthen economic relations with foreign countries through the development of open and nondiscriminatory trading in the free world; and

(3) to prevent Communist economic penetration.

TITLE II—TRADE AGREEMENTS

CHAPTER 1—GENERAL AUTHORITY

Sec. 201. Basic Authority for Trade Agreements

(a) Whenever the President determines that any existing duties or other import restrictions of any foreign country or the United States are unduly burdening and restricting the foreign trade of the United States and that any of the purposes stated in section 102 will be promoted thereby, the President may—

(1) after June 30, 1962, and before July 1, 1967, enter into trade agreements with foreign countries or instrumentalities thereof; and

(2) proclaim such modification or continuance of any existing duty or other import restriction, such continuance of existing duty-free or excise treatment, or such additional import restrictions, as he determines to be required or appropriate to carry out any such trade agreement.

(b) Except as otherwise provided in this title, no proclamation pursuant to subsection (a) shall be made—

(1)¹ decreasing any rate of duty to a rate below 50 percent of

¹ Public Law 90-14 (81 Stat. 14), May 5, 1967, states: "section 201(b)(1) (relating to limit on decrease in duty), sections 221, 223, and 224 (relating to certain requirements concerning negotiations), and section 253 (relating to staging requirements) of such Act shall not apply with respect to dicyandiamide provided for in item 425.40 of the Tariff Schedules of the United States, and shall not apply with respect to limestone, when imported to be used in the manufacture of cement, provided for in item 513.34 of such Schedules."

the rate existing on July 1, 1962; or

(2) increasing any rate of duty to (or imposing) a rate more than 50 percent above the rate existing on July 1, 1934.

Sections 202, 211, 212, 213, 221, 222, 223, 224, 225, 226, 231.

[Repealed by the Trade Act of 1974, Public Law 93-618 (88 Stat. 1979; 19 U.S.C. 2101-2487).]

Sec. 232. Safeguarding National Security

(a) No action shall be taken pursuant to section 201(a) or pursuant to section 350 of the Tariff Act of 1930 to decrease or eliminate the duty or other import restriction on any article if the President determines that such reduction or elimination would threaten to impair the national security.

(b)² Upon request of the head of any department or agency, upon application of an interested party, or upon his own motion, the Secretary of the Treasury (hereinafter referred to as the 'Secretary') shall immediately make an appropriate investigation, in the course of which he shall seek information and advice from, and shall consult with, the Secretary of Defense, the Secretary of Commerce, and other appropriate officers of the United States to determine the effects on the national security of imports of the article which is the subject of such request, application, or motion. The Secretary shall, if it is appropriate and after reasonable notice, hold public hearings or otherwise afford interested parties an opportunity to present information and advice relevant to such investigation. The Secretary shall report the findings of his investigation under this subsection with respect to the effect of the importation of such article in such quantities or under such circumstances upon the national security and, based on such findings, his recommendation for action or inaction under this section to the President within one year after receiving an application from an interested party or otherwise beginning an investigation under this subsection. If the Secretary finds that such article is being imported into the United States in such quantities or under such circumstances as to threaten to impair the national security, he shall so advise the President and the President shall take such action, and for such time, as he deems necessary to adjust the imports of such article and its derivatives so that such imports will not threaten to impair the national security, unless the President determines that the article is not being imported into the United States in such quantities or under such circumstances as to threaten to impair the national security.

(c) For the purposes of this section, the Secretary and the President shall, in the light of the requirements of national security and without excluding other relevant factors, give consideration to domestic

² As amended by sec. 127(d) of Public Law 93-618 (88 Stat. 1978 at 1993) which substituted "Secretary of the Treasury (hereinafter referred to as the 'Secretary'))" for "Director of the Office of Emergency Planning (hereinafter in this section referred to as the 'Director'))"; and which substituted "advice from, and shall consult with, the Secretary of Defense, the Secretary of Commerce, and other appropriate officers of the United States" for "advice from other appropriate departments and agencies". Public Law 93-618 also substituted the last sentence of this subsection for one which formerly read as follows:

"If, as a result of such investigation, the Director is of the opinion that the said article is being imported into the United States in such quantities or under such circumstances as to threaten to impair the national security, he shall promptly so advise the President, and, unless the President determines that the article is not being imported into the United States in such quantities or under such circumstances as to threaten to impair the national security as set forth in this section, he shall take such action, and for such time, as he deems necessary to adjust the imports of such article and its derivatives so that such imports will not so threaten to impair the national security."

production needed for projected national defense requirements, the capacity of domestic industries to meet such requirements, existing and anticipated availabilities of the human resources, products, raw materials, and other supplies and services essential to the national defense, the requirements of growth of such industries and such supplies and services including the investment, exploration, and development necessary to assure such growth, and the importation of goods in terms of their quantities, availabilities, character, and use as those affect such industries and the capacity of the United States to meet national security requirements. In the administration of this section, the Secretary and the President shall further recognize the close relation of the economic welfare of the Nation to our national security, and shall take into consideration the impact of foreign competition on the economic welfare of individual domestic industries; and any substantial unemployment, decrease in revenues of government, loss of skills or investment, or other serious effects resulting from the displacement of any domestic products by excessive imports shall be considered, without excluding other factors, in determining whether such weakening of our internal economy may impair the national security.

(d) A report shall be made and published upon the disposition of each request, application, or motion under subsection (b). The Secretary shall publish procedural regulations to give effect to the authority conferred on him by subsection (b).

CHAPTER 5—ADMINISTRATIVE PROVISIONS

Sec. 241. [Repealed by Public Law 93-618 (88 Stat. 1978; 19 U.S.C. 2101-2487).]

Sec. 242. Interagency Trade Organization.

(a) The President shall establish an interagency organization to assist him in carrying out the functions vested in him by this title and sections 201, 202, and 203 of the Trade Act of 1974.³ Such organization shall, in addition to the Special Representative for Trade Negotiations, be composed of the heads of such departments and of such other officers as the President shall designate. It shall meet at such times and with respect to such matters as the President or the chairman of the organization shall direct. The organization may invite the participation in its activities of any agency not represented in the organization when matters of interest to such agency are under consideration.

(b) In assisting the President, the organization shall—

(1) make recommendations to the President on basic policy issues arising in the administration of the trade agreements program,

(2) make recommendations to the President as to what action, if any, he should take on reports submitted to him by the Tariff Commission under section 201(d) of the Trade Act of 1974,³

(3) advise the President of the results of hearings held pursuant to subsections (c) and (d) of section 301 of the Trade Act of 1974⁴ and recommend appropriate action with respect thereto, and

³ See p. 35 for text.

⁴ See p. 48 for text.

(4) perform such other functions with respect to the trade agreements program as the President may from time to time designate.

(c) The organization shall, to the maximum extent practicable, draw upon the resources of the agencies represented in the organization, as well as such other agencies as it may determine, including the Tariff Commission. In addition, the President may establish by regulation such procedures and committees as he may determine to be necessary to enable the organization to provide for the conduct of hearings pursuant to subsections (c) and (d) of section 301 of the Trade Act of 1974, and for the carrying out of other functions assigned to the organization pursuant to this section.

Sec. 243. [Repealed by Public Law 93-618 (88 Stat. 1978; 19 U.S.C. 2101-2487).]

CHAPTER 6—GENERAL PROVISIONS

Sec. 251. Most-Favored-Nation Principle

Except as otherwise provided in this title, in section 350(b) of the Tariff Act of 1930, or in section 401(a) of the Tariff Classification Act of 1962, any duty or other import restriction or duty-free treatment proclaimed in carrying out any trade agreement under this title or section 350 of the Tariff Act of 1930 shall apply to products of all foreign countries, whether imported directly or indirectly.

Sec. 252. [Repealed by Public Law 93-618 (88 Stat. 1978; 19 U.S.C. 2101-2487).]

Sec. 253. [Repealed by Public Law 93-618 (88 Stat. 1978; 19 U.S.C. 2101-2487).]

Sec. 254. [Repealed by Public Law 93-618 (88 Stat. 1978; 19 U.S.C. 2101-2487).]

Sec. 255. Termination

(a) [Repealed by Public Law 93-618 (88 Stat. 1978; 19 U.S.C. 2101-2487).]

(b) The President may at any time terminate, in whole or in part, any proclamation made under this title.

Sec. 256. [Repealed by Public Law 93-618 (88 Stat. 1978; 19 U.S.C. 2101-2487).]

Sec. 257. Relation to Other Laws

(a) The first sentence of subsection (b) of section 350 of the Tariff Act of 1930 is amended by striking out "this section" each place it appears and inserting in lieu thereof "this section or the Trade Expansion Act of 1962". The second sentence of such subsection (b) is amended by striking out "this Act" and inserting in lieu thereof "this Act or the Trade Expansion Act of 1962". The third sentence of such subsection (b) is amended by striking out "1955," in paragraph (2) and inserting in lieu thereof "1955, and before July 1, 1962," and by adding at the end thereof the following new paragraph:

"(3) In order to carry out a foreign trade agreement entered into after June 30, 1962, and before July 1, 1967, below the lowest

rate permissible by applying title II of the Trade Expansion Act of 1962 to the rate of duty (however established, and even though temporarily suspended by Act of Congress or otherwise) existing on July 1, 1962, with respect to such product."

(b) Subsections (a) (5) and (e) of section 350 of the Tariff Act of 1930 are repealed.

(c) For purposes only of entering into trade agreements pursuant to the notices of intention to negotiate published in the Federal Register of May 28, 1960, and the Federal Register of November 23, 1960, the period during which the President is authorized to enter into foreign trade agreements under section 350 of the Tariff Act of 1930 is hereby extended from the close of June 30, 1962, until the close of December 31, 1962.

(d) The second and third sentences of section 2(a) of the Act entitled "An Act to amend the Tariff Act of 1930", approved June 12, 1934, as amended (19 U.S.C., sec. 1352(a)), are each amended by striking out "this Act" and inserting in lieu thereof "this Act or the Trade Expansion Act of 1962".

(e) (1) Sections 5, 6, 7, and 8(a) of the Trade Agreements Extension Act of 1951 are repealed.

(2) Action taken by the President under section 5 of such Act and in effect on the date of the enactment of this Act shall be considered as having been taken by the President under section 231.

(3) Any investigation by the Tariff Commission under section 7 of such Act which is in progress on the date of the enactment of this Act shall be continued under section 301 as if the application by the interested party were a petition under such section for tariff adjustment under section 351. For purposes of section 301(f), such petition shall be treated as having been filed on the date of the enactment of this Act.

(f) Section 2 of the Act entitled "An Act to extend the authority of the President to enter into trade agreements under section 350 of the Tariff Act of 1930, as amended", approved July 1, 1954, is repealed. Any action (including any investigation begun) under such section 2 before the date of the enactment of this Act shall be considered as having been taken or begun under section 232.

(g) (1) Section 102(1) of the Tariff Classification Act of 1962 is amended by striking out "of schedules 1 to 7, inclusive,".

(2) Section 203 of the Tariff Classification Act of 1962 is amended to read as follows:

"SEC. 203. For purposes of applying sections 323 and 350 of the Tariff Act of 1930, as amended, and the Trade Expansion Act of 1962 with respect to the Tariff Schedules of the United States—

"(1) The rate of duty in rate column numbered 2 for each item in schedules 1 to 7, inclusive, of the Tariff Schedules of the United States shall be treated as the rate of duty existing on July 1, 1934.

"(2) The lowest preferential or nonpreferential rate of duty in rate column numbered 1 for each item in schedules 1 to 7, inclusive, of the Tariff Schedules of the United States on the effective date provided in section 501(a) of this Act shall be treated as the lowest preferential or nonpreferential rate of duty, respectively, existing

on July 1, 1962; except that in the case of any such item included in a supplemental report made pursuant to section 101(c) of this Act to reflect a change proclaimed by the President after July 1, 1962 (other than a change to which the United States was committed on July 1, 1962), the rate treated as the lowest nonpreferential rate of duty existing on July 1, 1962, shall be the rate which the Commission specifically declares in such supplemental report to be the rate which, in its judgment, conforms to the fullest extent practicable to the rate regarded as existing on July 1, 1962, under section 256(4) of the Trade Expansion Act of 1962.

“(3) Legislation entering into force after the effective date provided for in section 501(a) of this Act which results in the permanent reclassification of any article without specifying the rate of duty applicable thereto, and proclamations under section 202(c) of this Act, shall be considered as having been in effect since June 30, 1962.”

(h) Nothing contained in this Act shall be construed to affect in any way the provisions of section 22 of the Agricultural Adjustment Act, or to apply to any import restriction heretofore or hereafter imposed under such section.

(i) Part I of title III of the Tariff Act of 1930 is amended by adding at the end thereof the following new section:

“SEC. 323. CONSERVATION OF FISHERY RESOURCES

“Upon the convocation of a conference on the use or conservation of international fishery resources, the President shall, by all appropriate means at his disposal, seek to persuade countries whose domestic fishing practices or policies affect such resources, to engage in negotiations in good faith relating to the use or conservation of such resources. If, after such efforts by the President and by other countries which have agreed to engage in such negotiations, any other country whose conservation practices or policies affect the interests of the United States and such other countries, has, in the judgment of the President, failed or refused to engage in such negotiations in good faith, the President may, if he is satisfied that such action is likely to be effective in inducing such country to engage in such negotiations in good faith, increase the rate of duty on any fish (in any form) which is the product of such country, for such time as he deems necessary, to a rate not more than 50 percent above the rate existing on July 1, 1934.”

Sec. 258. References

All provisions of law (other than this Act and the Trade Agreements Extension Act of 1951) in effect after June 30, 1962, referring to section 350 of the Tariff Act of 1930, to that section as amended, to the Act entitled “An Act to amend the Tariff Act of 1930”, approved June 12, 1934, to that Act as amended, or to agreements entered into, or proclamations issued, under any of such provisions, shall be construed, unless clearly precluded by the context, to refer also to this Act, or to agreements entered into or proclamations issued, pursuant to this Act.

TITLE III—TARIFF ADJUSTMENT AND OTHER ADJUSTMENT ASSISTANCE

CHAPTER 1—ELIGIBILITY FOR ASSISTANCE

[Sections 301 and 302 were repealed by Public Law 93-618 (88 Stat. 1978).]

CHAPTER 2—ASSISTANCE TO FIRMS

[Sections 311 through 315 were repealed by Public Law 93-618 (88 Stat. 1978).]

Sec. 316. Administration of Financial Assistance

(a) In making and administering guarantees, agreements for deferred participation, and loans under section 314, the Secretary of Commerce may—

(1) require security for any such guarantee, agreement, or loan, and enforce, waive, or subordinate such security;

(2) assign or sell at public or private sale, or otherwise dispose of, upon such terms and conditions and for such consideration as he shall determine to be reasonable, any evidence of debt, contract, claim, personal property, or security assigned to or held by him in connection with such guarantees, agreements, or loans, and collect, compromise, and obtain deficiency judgments with respect to all obligations assigned to or held by him in connection with such guarantees, agreements, or loans until such time as such obligations may be referred to the Attorney General for suit or collection;

(3) renovate, improve, modernize, complete, insure, rent, sell, or otherwise deal with, upon such terms and conditions and for such consideration as he shall determine to be reasonable, any real or personal property conveyed to or otherwise acquired by him in connection with such guarantees, agreements, or loans;

(4) acquire, hold, transfer, release, or convey any real or personal property or any interest therein whenever deemed necessary or appropriate, and execute all legal documents for such purposes; and

(5) exercise all such other powers and take all such other acts as may be necessary or incidental to the carrying out of functions pursuant to section 314.

(b) Any mortgage acquired as security under subsection (a) shall be recorded under applicable State law.

Sec. 317. Tax Assistance

[Section 317(a) was repealed by Public Law 93-618 (88 Stat. 1978).]

(b) Effective with respect to net operating losses for taxable years ending after December 31, 1955, subsection (b) of section 172 of the Internal Revenue Code of 1954 (relating to net operating loss carrybacks and carryovers) is amended to read as follows:

“(b) **NET OPERATING LOSS CARRYBACKS AND CARRYOVERS.**—

“(1) **YEARS TO WHICH LOSS MAY BE CARRIED.**—

“(A) (i) Except as provided in clause (ii), a net operating loss for any taxable year ending after December 31, 1957,

shall be a net operating loss carryback to each of the 3 taxable years preceding the taxable year of such loss.

"(ii) In the case of a taxpayer with respect to a taxable year ending on or after December 31, 1962, for which a certification has been issued under section 317 of the Trade Expansion Act of 1962, a net operating loss for such taxable year shall be a net operating loss carryback to each of the 5 taxable years preceding the taxable year of such loss.

"(B) Except as provided in subparagraph (C), a net operating loss for any taxable year ending after December 31, 1955, shall be a net operating loss carryover to each of the 5 taxable years following the taxable year of such loss.

"(C) In the case of a taxpayer which is a regulated transportation corporation (as defined in subsection (j)(1)), a net operating loss for any taxable year ending after December 31, 1955, shall (except as provided in subsection (j)) be a net operating loss carryover to each of the 7 taxable years following the taxable year of such loss.

"(2) AMOUNT OF CARRYBACKS AND CARRYOVERS.—Except as provided in subsections (i) and (j), the entire amount of the net operating loss for any taxable year (hereinafter in this section referred to as the 'loss year') shall be carried to the earliest of the taxable years to which (by reason of paragraph (1)) such loss may be carried. The portion of such loss which shall be carried to each of the other taxable years shall be the excess, if any, of the amount of such loss over the sum of the taxable income for each of the prior taxable years to which sum loss may be carried. For purposes of the preceding sentence, the taxable income for any such prior taxable year shall be computed—

"(A) with the modifications specified in subsection (d) other than paragraphs (1), (4), and (6) thereof; and

"(B) by determining the amount of the net operating loss deduction without regard to the net operating loss for the loss year or for any taxable year thereafter.

and the taxable income so computed shall not be considered to be less than zero.

"(3) SPECIAL RULES.—

"(A) Paragraph (1)(A)(ii) shall apply only if—

"(i) there has been filed, at such time and in such manner as may be prescribed by the Secretary or his delegate, a notice of filing of the application under section 317 of the Trade Expansion Act of 1962 for tax assistance, and, after its issuance, a copy of the certification under such section, and

"(ii) the taxpayer consents in writing to the assessment, within such period as may be agreed upon with the Secretary or his delegate, of any deficiency for any year to the extent attributable to the disallowance of a deduction previously allowed with respect to such net operating loss, even though at the time of filing such consent the assessment of such deficiency would otherwise be prevented by the operation of any law or rule of law.

“(B) In the case of—

“(i) a partnership and its partners, or

“(ii) an electing small business corporation under subchapter S and its shareholders,

paragraph (1) (A) (ii) shall apply as determined under regulations prescribed by the Secretary or his delegate. Such paragraph shall apply to a net operating loss of a partner or such a shareholder only if it arose predominantly from losses in respect of which certifications under section 317 of the Trade Expansion Act of 1962 were filed under this section.”

(c) Subsection (h) of section 6501 of the Internal Revenue Code of 1954 (relating to limitations on assessment and collection in the case of net operating loss carrybacks) is amended by inserting before the period: “, or within 18 months after the date on which the taxpayer files in accordance with section 172(b) (3) a copy of the certification (with respect to such taxable year) issued under section 317 of the Trade Expansion Act of 1962, whichever is later”.

(d) Section 6511(d) (2) (A) of the Internal Revenue Code of 1954 (relating to special period of limitation on credit or refund with respect to net operating loss carrybacks) is amended to read as follows:

“(A) PERIOD OF LIMITATION.—If the claim for credit or refund relates to an overpayment attributable to a net operating loss carryback, in lieu of the 3-year period of limitation prescribed in subsection (a), the period shall be that period which ends with the expiration of the 15th day of the 40th month (or the 39th month, in the case of a corporation) following the end of the taxable year of the net operating loss which results in such carryback, or the period prescribed in subsection (c) in respect of such taxable year, whichever expires later; except that—

“(i) with respect to an overpayment attributable to a net operating loss carryback to any year on account of a certification issued to the taxpayer under section 317 of the Trade Expansion Act of 1962, the period shall not expire before the expiration of the sixth month following the month in which such certification is issued to the taxpayer, and

“(ii) with respect to an overpayments attributable to the creation of, or an increase in, a net operating loss carryback as a result of the elimination of excessive profits by a renegotiation (as defined in section 1481(a) (1) (A)), the period shall not expire before September 1, 1959, or the expiration of the twelfth month following the month in which the agreement or order for the elimination of such excessive profits becomes final, whichever is the later.

In the case of such a claim, the amount of the credit or refund may exceed the portion of the tax paid within the period provided in subsection (b) (2) or (c), whichever is applicable, to the extent of the amount of the overpayment attributable to such carryback.”

Sec. 318. Protective Provisions

(a) Each recipient of adjustment assistance under section 313, 314, or 317 shall keep records which fully disclose the amount and disposition by such recipient of the proceeds, if any, of such adjustment assistance, and which will facilitate an effective audit. The recipient shall also keep such other records as the Secretary of Commerce may prescribe.

(b) The Secretary of Commerce and the Comptroller General of the United States shall have access for the purpose of audit and examination to any books, documents, papers, and records of the recipient pertaining to adjustment assistance under sections 313, 314, and 317.

(c) No adjustment assistance shall be extended under section 313, 314, or 317 to any firm unless the owners, partners, or officers certify to the Secretary of Commerce—

(1) the names of any attorneys, agents, and other persons engaged by or on behalf of the firm for the purpose of expediting applications for such adjustment assistance, and

(2) the fees paid or to be paid to any such person.

(d) No financial assistance shall be provided to any firm under section 314 unless the owners, partners, or officers shall execute an agreement binding them and the firm for a period of 2 years after such financial assistance is provided, to refrain from employing, tendering any office or employment to, or retaining for professional services any person who, on the date such assistance or any part thereof was provided, or within one year prior thereto, shall have served as an officer, attorney, agent, or employee occupying a position or engaging in activities which the Secretary of Commerce shall have determined involve discretion with respect to the provision of such financial assistance.

Sec. 319. Penalties

Whoever makes a false statement of a material fact knowing it to be false, or knowingly fails to disclose a material fact, or whoever willfully overvalues any security, for the purpose of influencing in any way the action of the Secretary of Commerce under this chapter, or for the purpose of obtaining money, property, or anything of value under this chapter, shall be fined not more than \$5,000 or imprisoned for not more than two years, or both.

Sec. 320. Suits

In providing technical and financial assistance under sections 313 and 314, the Secretary of Commerce may sue and be sued in any court of record of a State having general jurisdiction or in any United States district court, and jurisdiction is conferred upon such district court to determine such controversies without regard to the amount in controversy; but no attachment, injunction, garnishment, or other similar process, mesne or final, shall be issued against him or his property. Nothing in this section shall be construed to except the activities pursuant to sections 313 and 314 from the application of sections 507(b) and 2679 of title 28 of the United States Code, and of section 367 of the Revised Statutes (5 U.S.C., sec. 316).

CHAPTER 3—ASSISTANCE TO WORKERS

[Sections 321 through 338 were repealed by Public Law 93-618 (88 Stat. 1978).]

CHAPTER 4—TARIFF ADJUSTMENT

Sec. 351. Authority

(a) (1) After receiving an affirmative finding of the Tariff Commission under section 301(b) with respect to an industry, the President may proclaim such increase in, or imposition of, any duty or other import restriction on the article causing or threatening to cause serious injury to such industry as he determines to be necessary to prevent or remedy serious injury to such industry.

(2) If the President does not, within 60 days after the date on which he receives such affirmative finding, proclaim the increase in, or imposition of, any duty or other import restriction on such article found and reported by the Tariff Commission pursuant to section 301(e)—

(A) he shall immediately submit a report to the House of Representatives and to the Senate stating why he has not proclaimed such increase or imposition, and

(B) such increase or imposition shall take effect (as provided in paragraph (3)) upon the adoption by both Houses of the Congress (within the 60-day period following the date on which the report referred to in subparagraph (A) is submitted to the House of Representatives and the Senate), by the yeas and nays by the affirmative vote of a majority of the authorized membership of each House, of a concurrent resolution stating in effect that the Senate and House of Representatives approve the increase in, or imposition of, any duty or other import restriction on the article found and reported by the Tariff Commission.

For purposes of subparagraph (B), in the computation of the 60-day period there shall be excluded the days on which either House is not in session because of adjournment of more than 3 days to a day certain or an adjournment of the Congress sine die. The report referred to in subparagraph (A) shall be delivered to both Houses of the Congress on the same day and shall be delivered to the Clerk of the House of Representatives if the House of Representatives is not in session and to the Secretary of the Senate if the Senate is not in session.

(3) In any case in which the contingency set forth in paragraph (2) (B) occurs, the President shall (within 15 days after the adoption of such resolution) proclaim the increase in, or imposition of, any duty or other import restriction on the article which was found and reported by the Tariff Commission pursuant to section 301(e).

(4) The President may, within 60 days after the date on which he receives an affirmative finding of the Tariff Commission under section 301(b) with respect to an industry, request additional information from the Tariff Commission. The Tariff Commission shall, as soon as practicable but in no event more than 120 days after the date on which it receives the President's request, furnish additional informa-

tion with respect to such industry in a supplemental report. For purposes of paragraph (2), the date on which the President receives such supplemental report shall be treated as the date on which the President received the affirmative finding of the Tariff Commission with respect to such industry.

(b) No proclamation pursuant to subsection (a) shall be made—

(1) increasing any rate of duty to a rate more than 50 percent above the rate existing on July 1, 1934, or, if the article is dutiable but no rate existed on July 1, 1934, the rate existing at the time of the proclamation,

(2) in the case of an article not subject to duty, imposing a duty in excess of 50 percent ad valorem.

For purposes of paragraph (1), the term “existing on July 1, 1934” has the meaning assigned to such term by paragraph (5) of section 256.

(c) (1) Any increase in, or imposition of, any duty or other import restriction proclaimed pursuant to this section or section 7 of the Trade Agreements Extension Act of 1951—

(A) may be reduced or terminated by the President when he determines, after taking into account the advice received from the Tariff Commission under subsection (d) (2) and after seeking advice of the Secretary of Commerce and the Secretary of Labor, that such reduction or termination is in the national interest, and

(B) unless extended under paragraph (2), shall terminate not later than the close of the date which is 4 years (or, in the case of any such increase or imposition proclaimed pursuant to such section 7, 5 years) after the effective date of the initial proclamation or the date of the enactment of this Act, whichever date is the later.

(2) ⁵ * * *

(d) (1) So long as any increase in, or imposition of, any duty or other import restriction pursuant to this section or pursuant to section 7 of the Trade Agreements Extension Act of 1951 remains in effect, the Tariff Commission shall keep under review developments with respect to the industry concerned, and shall make annual reports to the President concerning such developments.

(2) Upon request of the President or upon its own motion, the Tariff Commission shall advise the President of its judgment as to the probable economic effect on the industry concerned of the reduction or termination of the increase in, or imposition of, any duty or other import restriction pursuant to this section or section 7 of the Trade Agreements Extension Act of 1951.

(3) ⁵ * * *

(4) In advising the President under this subsection as to the probable economic effect on the industry concerned, the Tariff Commission shall take into account all economic factors which it considers relevant including idling of productive facilities, inability to operate at a level of reasonable profit, and unemployment or underemployment.

(5) Advice by the Tariff Commission under this subsection shall be given on the basis of an investigation during the course of which

⁵ Repealed by Public Law 93-618 (88 Stat. 1978; 19 U.S.C. 2101-2487).

the Tariff Commission shall hold a hearing at which interested persons shall be given a reasonable opportunity to be present, to produce evidence, and to be heard.

(e) The President, as soon as practicable, shall take such action as he determines to be necessary to bring trade agreements entered into under section 350 of the Tariff Act of 1930 into conformity with the provisions of this section. No trade agreement shall be entered into under section 201(a) unless such agreement permits action in conformity with the provisions of this section.

Sec. 352. Orderly Marketing Agreements

(a) After receiving an affirmative finding of the Tariff Commission under section 301(b) with respect to an industry, the President may, in lieu of exercising the authority contained in section 351(a) (1) but subject to the provisions of section 351(a) (2), (3), and (4), negotiate international agreements with foreign countries limiting the export from such countries and the import into the United States of the article causing or threatening to cause serious injury to such industry, whenever he determines that such action would be more appropriate to prevent or remedy serious injury to such industry than action under section 351(a) (1).

(b) In order to carry out an agreement concluded under subsection (a), the President is authorized to issue regulations governing the entry or withdrawal from warehouse of the article covered by such agreement. In addition, in order to carry out a multilateral agreement concluded under subsection (a) among countries accounting for a significant part of world trade in the article covered by such agreement, the President is also authorized to issue regulations governing the entry or withdrawal from warehouse of the like article which is the product of countries not parties to such agreement.

CHAPTER 5—ADVISORY BOARD

Sec. 361. [Repealed by Public Law 93-618 (88 Stat. 1978; 19 U.S.C. 2101-2487).]

TITLE IV—GENERAL PROVISIONS

[Sections 401, 402, 403, 404, and 405 (1), (3), (4), and (5) were repealed by Public Law 93-618 (88 Stat. 1978; 19 U.S.C. 2101-2487).]

Sec. 405. Definitions

For purposes of this Act—

* * * * *

(2) The term "duty or other import restriction" includes (A) the rate and form of an import duty, and (B) a limitation, prohibition, charge, and exaction other than duty, imposed on importation or imposed for the regulation of imports.

* * * * *

(6) The term "modification", as applied to any duty or other import restriction, includes the elimination of any duty.

3. Antidumping Legislation

a. Antidumping Act, 1921, as amended ¹

Title II of Public Law 67-10 [H.R. 2435], 42 Stat. 11, approved May 27, 1921, as amended by Public Law 83-768 [H.R. 10009], 68 Stat. 1136, approved September 1, 1954; Public Law 85-630 [H.R. 6006], 72 Stat. 583, approved August 14, 1958; Public Law 91-27 [S. 2624], 84 Stat. 274, approved May 28, 1970; and by Public Law 93-618 [H.R. 10710], 88 Stat. 1978, approved January 3, 1975

DUMPING INVESTIGATION

SEC. 201.² (a) Whenever the Secretary of the Treasury (hereinafter called the "Secretary") determines that a class or kind of foreign merchandise is being, or is likely to be, sold in the United States or elsewhere at less than its fair value, he shall so advise the United States International Trade Commission, and the Commission shall determine within three months thereafter whether an industry in the United States is being or is likely to be injured, or is prevented from being established, by reason of the importation of such merchandise into the United States. The Commission, after such investigation as it deems necessary, shall notify the Secretary of its determination, and, if that determination is in the affirmative, the Secretary shall make public a notice (hereinafter in this Act called a "finding") of his determination and the determination of the Commission. For the purposes of this subsection, the Commission shall be deemed to have made an affirmative determination if the Commissioners of the Commission voting are evenly divided as to whether its determination should be in the affirmative or in the negative.³ The Secretary's finding shall include a description of the class or kind of merchandise to which it applies in such detail as he shall deem necessary for the guidance of customs officers.

(b)² (1) In the case of any imported merchandise of a class or kind as to which the Secretary has not so made public a finding, he shall, within six months after the publication under subsection (c) (1) of a notice of initiation of an investigation—

(A) determine whether there is reason to believe or suspect, from the invoice or other papers or from information presented to him or to any other person to whom authority under this section has been delegated, that the purchase price is less, or that the exporter's sales price is less or likely to be less, than the foreign market value (or, in the absence of such value, than the constructed value); and

(B) if his determination is affirmative, publish a notice of that fact in the Federal Register, and require under such regulations

¹ 19 U.S.C. 160-173.

² As amended and restated by sec. 301 of Public Law 83-768 (68 Stat. 1139; 19 U.S.C. 160) and by sec. 321 of Public Law 93-618 (88 Stat. 2043). Section 321 also substituted "United States International Trade Commission" for "United States Tariff Commission."

³ Added by sec. 1 of Public Law 85-630 (72 Stat. 583).

as he may prescribe, the withholding of appraisement as to such merchandise entered, or withdrawn from warehouse, for consumption on or after the date of publication of that notice in the Federal Register (or such earlier date, not more than one hundred and twenty days before the date of publication under subsection (c) (1) of notice of initiation of the investigation, as the Secretary may prescribe), until the further order of the Secretary, or until the Secretary has made public a finding as provided for in subsection (a) in regard to such merchandise; or

(C) if his determination is negative (or if he tentatively determines that the investigation should be discontinued), publish notice of that fact in the Federal Register.

(2) If in the course of an investigation under this subsection the Secretary concludes that the determination provided for in paragraph (1) cannot reasonably be made within six months, he shall publish notice of this in the Federal Register, together with a statement of reasons therefor, in which case the determination shall be made within nine months after the publication in the Federal Register of the notice of initiation of the investigation.

(3) Within three months after publication in the Federal Register of a determination under paragraph (1), the Secretary shall make a final determination whether the foreign merchandise in question is being or is likely to be sold in the United States at less than its fair value (or a final discontinuance of the investigation).

(c)² (1) The Secretary shall, within thirty days of the receipt of information alleging that a particular class or kind of merchandise is being or is likely to be sold in the United States or elsewhere at less than its fair value and that an industry in the United States is being or is likely to be injured, or is prevented from being established, by reason of the importation of such merchandise into the United States, determine whether to initiate an investigation into the question of whether such merchandise in fact is being or is likely to be sold in the United States or elsewhere at less than its fair value. If his determination is affirmative he shall publish notice of the initiation of such an investigation in the Federal Register. If it is negative, the inquiry shall be closed.

(2) If, in the course of making a determination under paragraph (1), the Secretary concludes, from the information available to him, that there is substantial doubt whether an industry in the United States is being or is likely to be injured, or is prevented from being established, by reason of the importation of such merchandise into the United States, he shall forward to the Commission the reasons for such substantial doubt and a preliminary indication, based upon whatever price information is available, concerning possible sales at less than fair value, including possible margins of dumping and the volume of trade. If within thirty days after receipt of such information from the Secretary, the Commission, after conducting such inquiry as it deems appropriate, determines there is no reasonable indication that an industry in the United States is being or is likely to be injured, or is prevented from being established, by reason of the importation of such merchandise into the United States, it shall advise the Secretary of its determination and any investigation under subsection (b) then in progress shall be terminated.

(d) (1) * Before making any determination under subsection (a), the Secretary or the Commission, as the case may be, shall, at the request of any foreign manufacturer or exporter, or any domestic importer, of the foreign merchandise in question, or of any domestic manufacturer, producer, or wholesaler of merchandise of the same class or kind, conducts a hearing at which—

(A) any such person shall have the right to appear by counsel or in person; and

(B) any other person, firm, or corporation may make application and, upon good cause shown, may be allowed by the Secretary or the Commission, as the case may be, to intervene and appear at such hearing by counsel or in person.

(2) The Secretary, upon determining whether foreign merchandise is being, or is likely to be, sold in the United States at less than its fair value, and the Commission, upon making its determination under subsection (a), shall publish in the Federal Register such determination, whether affirmative or negative, together with a complete statement of findings and conclusions, and the reasons or bases therefor, on all the material issues of fact or law presented (consistent with confidential treatment granted by the Secretary or the Commission, as the case may be, in the course of making its determination).

(3) The hearings provided for under this section shall be exempt from sections 554, 555, 556, 557, and 702 of title 5 of the United States Code. The transcript of any hearing, together with all information developed in connection with the investigation (other than items to which confidential treatment has been granted by the Secretary or the Commission, as the case may be), shall be made available in the manner and to the extent provided in section 552(b) of such title.

SPECIAL DUMPING DUTY

SEC. 202.⁵ (a) In the case of all imported merchandise, whether dutiable or free of duty, of a class or kind as to which the Secretary of the Treasury has made public a finding as provided for in section 201, entered, or withdrawn from warehouse, for consumption, not more than one hundred and twenty days before the question of dumping was raised by or presented to the Secretary or any person to whom authority under section 201 has been delegated, and as to which no appraisement has been made before such finding has been so made public, if the purchase price or the exporter's sales price is less than the foreign market value (or, in the absence of such value, than the constructed value) there shall be levied, collected, and paid, in addition to any other duties imposed thereon by law, a special dumping duty in an amount equal to such difference.

(b)⁶ In determining the foreign market value for the purposes of subsection (a), if it is established to the satisfaction of the Secretary or his delegate that the amount of any difference between the purchase price and the foreign market value (or that the fact that the purchase

* Added by sec. 321(a) (2) of Public Law 93-618 (88 Stat. 1978 at 2044).

⁵ As amended and restated by sec. 302 of Public Law 83-768 (68 Stat. 1139). The phrase "constructed value" replaced "cost production as a result of section 4(b) of Public Law 85-630 (72 Stat. 585)". Sec. 311 of the Customs Court Act of 1970 (Public Law 91-271) deleted a reference to an appraisement "report" in this section.

⁶ As amended and restated by sec. 2 of Public Law 85-630 (72 Stat. 583).

price is the same as the foreign market value) is wholly or partly due to—

(1) the fact that the wholesale quantities, in which such or similar merchandise is sold or, in the absence of sales, offered for sale for exportation to the United States in the ordinary course of trade, are less or are greater than the wholesale quantities in which such or similar merchandise is sold or, in the absence of sales, offered for sale in the principal markets of the country of exportation in the ordinary course of trade for home consumption (or, if not so sold or offered for sale for home consumption, then for exportation to countries other than the United States),

(2) other differences in circumstances of sale, or

(3) the fact that merchandise described in subdivision (C), (D), (E), or (F) of section 212 (3) is used in determining foreign market value,

then due allowance shall be made therefor.

(c) In determining the foreign market value for the purposes of subsection (a), if it is established to the satisfaction of the Secretary or his delegate that the amount of any difference between the exporter's sales price and the foreign market value (or that the fact that the exporter's sales price is the same as the foreign market value) is wholly or partly due to—

(1) the fact that the wholesale quantities in which such or similar merchandise is sold or, in the absence of sales, offered for sale in the principal markets of the United States in the ordinary course of trade, are less or are greater than the wholesale quantities in which such or similar merchandise is sold or, in the absence of sales, offered for sale in the principal markets of the country of exportation in the ordinary course of trade for home consumption (or, if not so sold or offered for sale for home consumption, then for exportation to countries other than the United States),

(2) other differences in circumstances of sale, or

(3) the fact that merchandise described in subdivision (C), (D), (E), or (F) of section 212(3) is used in determining foreign market value,

then due allowance shall be made therefor.

PURCHASE PRICE

SEC. 203.⁷ For the purposes of this title, the purchase price of imported merchandise shall be the price at which such merchandise has been purchased or agreed to be purchased, prior to the time of exportation, by the person by whom or for whose account the merchandise is imported, plus, when not included in such price, the cost of all containers and coverings and all other costs, charges, and

⁷ As amended and restated by sec. 321(b) of Public Law 93-618 (88 Stat. 1978 at 2045). Subsection (g)(2) of that section provided that:

"The amendments made by subsections (b) through (e) of this section shall apply with respect to all merchandise which is not appraised on or before the date of the enactment of this Act; except that such amendments shall not apply with respect to any merchandise which—

(A) was exported from the country of exportation before such date of the enactment, and

(B) is subject to a finding under the Antidumping Act, 1921, which (i) is outstanding on such date of enactment, or (ii) was revoked on or before such date of enactment but is still applicable to such merchandise."

expenses incident to placing the merchandise in condition, packed ready for shipment to the United States, less the amount, if any, included in such price, attributable to any additional costs, charges, and expenses, and United States import duties, incident to bringing the merchandise from the place of shipment in the country of exportation to the place of delivery in the United States; and less the amount, if included in such price, of any export tax imposed by the country of exportation on the exportation of the merchandise to the United States; and plus the amount of any import duties imposed by the country of exportation which have been rebated, or which have not been collected, by reason of the exportation of the merchandise to the United States; and plus the amount of any taxes imposed in the country of exportation directly upon the exported merchandise or components thereof, which have been rebated, or which have not been collected, by reason of the exportation of the merchandise to the United States, but only to the extent that such taxes are added to or included in the price of such or similar merchandise when sold in the country of exportation; and plus the amount of any taxes rebated or not collected, by reason of the exportation of the merchandise to the United States, which rebate or noncollection has been determined by the Secretary to be a bounty or grant within the meaning of section 303 of the Tariff Act of 1930.

EXPORTER'S SALES PRICE

SEC. 204.⁸ For the purposes of this title, the exporter's sale price of imported merchandise shall be the price at which such merchandise is sold or agreed to be sold in the United States, before or after the time of importation, by or for the account of the exporter, plus, when not included in such price, the cost of all containers and coverings and all other costs, charges, and expenses incident to placing the merchandise in condition, packed ready for shipment to the United States, less (1) the amount, if any, included in such price, attributable to any additional costs, charges, and expenses, and United States import duties, incident to bringing the merchandise from the place of shipment in the country of exportation to the place of delivery in the United States, (2) the amount of the commissions, if any, for selling in the United States the particular merchandise under consideration, (3) an amount equal to the expenses, if any, generally incurred by or for the account of the exporter in the United States in selling identical or substantially identical merchandise, (4) the amount of any export tax imposed by the country of exportation on the exportation of the merchandise to the United States, and (5) the amount of any increased value, including additional material and labor, resulting from a process of manufacture or assembly performed on the imported merchandise after the importation of the merchandise and before its sale to a person who is not the exporter of the merchandise within the meaning of section 207; and plus the amount of any import duties imposed by the country of exportation which have been rebated, or which have not been collected, by reason of the exportation of the merchandise to the United States; and plus the amount of any taxes

⁸ As amended and restated by sec. 321(c) of Public Law 93-618 (88 Stat. 1978 at 2046). See footnote 7 for limitations on applicability.

imposed in the country of exportation directly upon the exported merchandise or components thereof, which have been rebated, or which have not been collected, by reason of the exportation of the merchandise to the United States, but only to the extent that such taxes are added to or included in the price of such or similar merchandise when sold in the country of exportation; and plus the amount of any taxes rebated, or not collected, by reason of the exportation of the merchandise to the United States, which rebate or noncollection has been determined by the Secretary to be a bounty or grant within the meaning of section 303 of the Tariff Act of 1930.

FOREIGN MARKET VALUE

SEC. 205. (a)⁹ For the purposes of this title, the foreign market value of imported merchandise shall be the price, at the time of exportation of such merchandise to the United States, at which such or similar merchandise is sold or, in the absence of sales, offered for sale in the principal markets of the country from which exported, in the usual wholesale quantities and in the ordinary course of trade for home consumption (or, if not so sold or offered for sale for home consumption, or if the Secretary determines that the quantity sold for home consumption is so small in relation to the quantity sold for exportation to countries other than the United States as to form an inadequate basis for comparison, then the price at which so sold or offered for sale for exportation to countries other than the United States), plus, when not included in such price, the cost of all containers and coverings and all other costs, charges, and expenses incident to placing the merchandise in condition packed ready for shipment to the United States, except that in the case of merchandise purchased or agreed to be purchased by the person by whom or for whose account the merchandise is imported, prior to the time of exportation, the foreign market value shall be ascertained as of the date of such purchase or agreement to purchase. In the ascertainment of foreign market value for the purposes of this title no pretended sale or offer for sale, and no sale or offer for sale intended to establish a fictitious market, shall be taken into account. If such or similar merchandise is sold or, in the absence of sales, offered for sale through a sales agency or other organization related to the seller in any of the respects described in section 207, the prices at which such or similar merchandise is sold or, in the absence of sales, offered for sale by such sales agency or other organization may be used in determining the foreign market value.

(b)¹⁰ Whenever the Secretary has reasonable grounds to believe or suspect that sales in the home market of the country of exportation, or, as appropriate, to countries other than the United States, have been made at prices which represent less than the cost of producing the merchandise in question, he shall determine whether, in fact, such sales were made at less than the cost of producing the merchandise. If the Secretary determines that sales made at less than cost of production (1) have been made over an extended period of time and in substantial quantities, and (2) are not at prices which permit recovery of

⁹ As amended and restated by Sec. 3 of the Act of Aug. 14, 1958 (72 Stat. 584).

¹⁰ Added by sec. 321 (d) of Public Law 93-618 (88 Stat. 1978 at 2046). See footnote 7 for limitations on applicability.

all costs within a reasonable period of time in the normal course of trade, such sales shall be disregarded in the determination of foreign market value. Whenever sales are disregarded by virtue of having been made at less than the cost of production and the remaining sales, made at not less than cost of production, are determined to be inadequate as a basis for the determination of foreign market value, the Secretary shall determine that no foreign market value exists and employ the constructed value of the merchandise in question.

(c)¹⁰ If available information indicates to the Secretary that the economy of the country from which the merchandise is exported is state-controlled to an extent that sales or offers of sales of such or similar merchandise in that country or to countries other than the United States do not permit a determination of foreign market value under subsection (a), the Secretary shall determine the foreign market value of the merchandise on the basis of the normal costs, expenses, and profits as reflected by either—

(1) the prices, determined in accordance with subsection (a) and section 202, at which such or similar merchandise of a non-state-controlled-economy country or countries is sold either (A) for consumption in the home market of that country or countries, or (B) to other countries, including the United States; or

(2) the constructed value of such or similar merchandise in a non-state-controlled-economy country or countries as determined under section 206.

(d)¹⁰ Whenever, in the course of an investigation under this Act, the Secretary determines that—

(1) merchandise exported to the United States is being produced in facilities which are owned or controlled, directly or indirectly, by a person, firm, or corporation which also owns or controls, directly or indirectly, other facilities for the production of such or similar merchandise which are located in another country or countries;

(2) the sales of such or similar merchandise by the company concerned in the home market of the exporting country are non-existing or inadequate as a basis for comparison with the sales of the merchandise to the United States; and

(3) the foreign market value of such or similar merchandise produced in one or more of the facilities outside the country of exportation is higher than the foreign market value, or if there is no foreign market value, the constructed value, of such or similar merchandise produced in the facilities located in the country of exportation,

he shall determine the foreign market value of such merchandise by reference to the foreign market value at which such or similar merchandise is sold in substantial quantities by one or more facilities outside the country of exportation. The Secretary in making any determination under this paragraph, shall make adjustments for the difference between the costs of production (including taxes, labor, materials, and overhead) of such or similar merchandise produced in facilities outside the country of exportation and costs of production of such or similar merchandise produced in the facilities in the country of exportation, if such differences are demonstrated to his satisfaction. For the purpose of this subsection, in determining foreign

market value of such or similar merchandise produced in a country outside of the country of exportation, the Secretary shall determine its price at the time of exportation from the country of exportation and shall make any adjustments required by section 205(a) for the cost of all containers and coverings and all other costs, charges, and expenses incident to placing the merchandise in condition packed ready for shipment to the United States by reference to such costs in the country of exportation.

CONSTRUCTION VALUE

SEC. 206.⁹ (a) For the purposes of this title, the constructed value of imported merchandise shall be the sum of—

(1) the cost of materials (exclusive of any internal tax applicable in the country of exportation directly to such materials or their disposition, but remitted or refunded upon the exportation of the article in the production of which such materials are used) and of fabrication or other processing of any kind employed in producing such or similar merchandise, at a time preceding the date of exportation of the merchandise under consideration which would ordinarily permit the production of that particular merchandise in the ordinary course of business;

(2) an amount for general expenses and profit equal to that usually reflected in sales of merchandise of the same general class or kind as the merchandise under consideration which are made by producers in the country of exportation, in the usual wholesale quantities and in the ordinary course of trade, except that (A) the amount for general expenses shall not be less than 10 per centum of the cost as defined in paragraph (1), and (B) the amount for profit shall not be less than 8 per centum of the sum of such general expenses and cost; and

(3) the cost of all containers and coverings of whatever nature, and all other expenses incidental to placing the merchandise under consideration in condition, packed ready for shipment to the United States.

(b) For the purposes of this section, a transaction directly or indirectly between persons specified in any one of the paragraphs in subsection (c) of this section may be disregarded if, in the case of any element of value required to be considered, the amount representing that element does not fairly reflect the amount usually reflected in the market under consideration of merchandise of the same general class or kind as the merchandise under consideration. If a transaction is disregarded under the preceding sentence and there are no other transactions available for consideration, then the determination of the amount required to be considered shall be based on the best evidence available as to what the amount would have been if the transaction had occurred between persons not specified in any one of the paragraphs in subsection (c).

(c) The persons referred to in subsection (b) are:

(1) Members of a family, including brothers and sisters (whether by the whole or half blood), spouse, ancestors, and lineal descendants;

- (2) Any officer or director of an organization and such organization;
- (3) Partners;
- (4) Employer and employee;
- (5) Any person directly or indirectly owning, controlling, or holding with power to vote, 5 per centum or more of the outstanding voting stock or shares of any organization and such organization; and
- (6) Two or more persons directly or indirectly controlling, controlled by, or under common control with, any person.

EXPORTER

SEC. 207. That for the purposes of this title the exporter of imported merchandise shall be the person by whom or for whose account the merchandise is imported into the United States:

- (1) If such person is the agent or principal of the exporter, manufacturer, or producer; or
- (2) If such person owns or controls, directly or indirectly, through stock ownership or control or otherwise, any interest in the business of the exporter, manufacturer, or producer; or
- (3) If the exporter, manufacturer, or producer owns or controls, directly or indirectly, through stock ownership or control or otherwise, any interest in any business conducted by such person; or
- (4) If any person or persons, jointly or severally, directly or indirectly, through stock ownership or control or otherwise, own or control in the aggregate 20 per centum or more of the voting power or control in the business carried on by the person by whom or for whose account the merchandise is imported into the United States, and also 20 per centum or more of such power or control in the business of the exporter, manufacturer, or producer.

OATHS AND BONDS ON ENTRY

Sec. 208.¹¹ That in the case of all imported merchandise, whether dutiable or free of duty, of a class or kind as to which the Secretary has made public a finding as provided in section 201, and delivery of which has not been made by the appropriate customs officer before such finding has been so made public, unless the person by whom or for whose account such merchandise is imported makes oath before such customs officer, under regulations prescribed by the Secretary, that he is not an exporter, or unless such person declares under oath at the time of entry, under regulations prescribed by the Secretary, the exporter's sales price of such merchandise, it shall be unlawful for such customs officer to deliver the merchandise until such person has made oath before such customs officer under regulations prescribed by the Secretary, that the merchandise has not been sold or agreed to be sold by such person, and has given bond to such customs officer, under regulations prescribed by the Secretary, with sureties approved by such customs officer, in an amount equal to the estimated value of the

¹¹ The functions of the offices of collector of customs and appraiser of merchandise were transferred to the Secretary of the Treasury under Reorganization Plan No. 26 of 1950 (15 Fed. Reg. 4935). References to the "collector" or the "appraiser" in Sections 208, 209, and 210 were amended to the "appropriate customs officer" or "such customs officer" by Sections 312, 313, and 314 of the Customs Courts Act of 1970 (Public Law 91-271).

merchandise, conditioned: (1) that he will report to such customs officer the exporter's sales price of the merchandise within 30 days after such merchandise has been sold or agreed to be sold in the United States, (2) that he will pay on demand from such customs officer the amount of special dumping duty, if any, imposed by this title upon such merchandise, and (3) that he will furnish to such customs officer such information as may be in his possession and as may be necessary for the ascertainment of such duty, and will keep such records as to the sale of such merchandise as the Secretary may by regulation prescribe.

DUTIES OF APPRAISERS

SEC. 209.¹² That in the case of all imported merchandise, whether dutiable or free of duty, of a class or kind as to which the Secretary has made public a finding as provided in section 201, and as to which the appropriate customs officer has made no appraisement before such finding has been so made public, it shall be the duty of such customs officer, by all reasonable ways and means to ascertain, estimate, and appraise (any invoice or affidavit thereto or statement of constructed value to the contrary notwithstanding) the foreign market value or the constructed value, as the case may be, the purchase price, and the exporter's sales price, and any other facts which the Secretary may deem necessary for the purposes of this title.

APPEALS AND PROTESTS

SEC. 210.¹² That for the purposes of this title the determination of the appropriate customs officer as to the foreign market value or the constructed value, as the case may be, the purchase price, and the exporter's sales price, and the action of such customs officer in assessing special dumping duty, shall have the same force and effect and be subject to the same right of protest, under the same conditions and subject to the same limitations; and the general appraisers, the Board of General Appraisers, and the Court of Customs Appeals shall have the same jurisdiction, powers, and duties in connection with such protests as in the case of appeals and protests relating to customs duties under existing law.

DRAWBACKS

SEC. 211. That the special dumping duty imposed by this title shall be treated in all respects as regular customs duties within the meaning of all laws relating to the drawback of customs duties.

DEFINITIONS

SEC. 212.¹³ For the purposes of this title—

(1) The term "sold or, in the absence of sales, offered for sale" means sold or, in the absence of sales, offered—

(A) to all purchasers at wholesale, or

(B) in the ordinary course of trade to one or more selected purchasers at wholesale at a price which fairly reflects the market value of the merchandise,

¹² Public Law 91-271 substituted references to the "appropriate customs officer or such customs officer" for reference to the "collector" whenever appearing herein. Sec. 4(b) of Public Law 85-630 struck out "cost of production" and substituted "constructed value".

¹³ Added by sec. 5 of Public Law 85-630 (72 Stat. 585).

without regard to restrictions as to the disposition or use of the merchandise by the purchaser except that, where such restrictions are found to affect the market value of the merchandise, adjustment shall be made therefor in calculating the price at which the merchandise is sold or offered for sale.

(2) The term "ordinary course of trade" means the conditions and practices which, for a reasonable time prior to the exportation of the merchandise under consideration, have been normal in the trade under consideration with respect to merchandise of the same class or kind as the merchandise under consideration.

(3)¹⁴ The term "such or similar merchandise" means merchandise in the first of the following categories in respect of which a determination for the purposes of this title can be satisfactorily made:

(A) The merchandise under consideration and other merchandise which is identical in physical characteristics with, and was produced in the same country by the same person as, the merchandise under consideration.

(B) Merchandise (i) produced in the same country and by the same person as the merchandise under consideration, (ii) like the merchandise under consideration in component material or materials and in the purposes for which used, and (iii) approximately equal in commercial value to the merchandise under consideration.

(C) Merchandise (i) produced in the same country and by the same person and of the same general class or kind as the merchandise under consideration, (ii) like the merchandise under consideration in the purposes for which used, and (iii) which the Secretary or his delegate determines may reasonably be compared for the purposes of this title with the merchandise under consideration.

(4) The term "usual wholesale quantities", in any case in which the merchandise in respect of which value is being determined is sold in the market under consideration at different prices for different quantities, means the quantities in which such merchandise is there sold at the price or prices for one quantity in an aggregate volume which is greater than the aggregate volume sold at the price or prices for any other quantity.

SHORT TITLE

SEC. 213.¹⁵ That this title may be cited as the "Antidumping Act, 1921."

DEFINITIONS¹⁶

SEC. 406. That when used in Title II or Title III or in this title—

The term "person" includes individuals, partnerships, corporations, and associations; and

¹⁴ Amended by sec. 321(e) of Public Law 93-618 (88 Stat. 1978 at 2048) which struck out subparagraphs (B), (D), and (F) (applying the term to identical merchandise produced by another person) and which redesignated subparagraphs (C) and (E) as subparagraphs (B) and (C), respectively.

¹⁵ Renumbered by sec. 5 of the Act of Aug. 14, 1958 (72 Stat. 585).

¹⁶ Although the provisions of the Antidumping Act, 1921, are contained in title II of the Act of May 27, 1921, sections 406 and 407 of title IV of that Act are applicable to the Antidumping Act, 1921.

The term "United States" includes all Territories and possessions subject to the jurisdiction of the United States, except the Philippine Islands,¹⁷ the Virgin Islands, the islands of Guam and Tutuila, and the Canal Zone.

RULES AND REGULATIONS

SEC. 407. That the Secretary shall make rules and regulations necessary for the enforcement of this Act.

¹⁷ The independence of the Philippine Islands was recognized by the United States after the date of the enactment of the Act of May 27, 1921, thus the reference to the Philippine Islands in the definition of the term "United States" should be omitted.

b. Administration of the Antidumping Act, 1921

Title II of Public Law 90-634 [H.R. 17324], 82 Stat. 1345, approved October 24, 1968

TITLE II—ADMINISTRATION OF THE ANTIDUMPING ACT, 1921

DETERMINATIONS UNDER THE ANTIDUMPING ACT, 1921

SEC. 201.¹ (a) Nothing contained in the International Antidumping Code, signed at Geneva on June 30, 1967, shall be construed to restrict the discretion of the United States Tariff Commission in performing its duties and functions under the Andidumping Act, 1921, and in performing their duties and functions under such Act the Secretary of the Treasury and the Tariff Commission shall—

(1) resolve any conflict between the International Antidumping Code and the Antidumping Act, 1921, in favor of the Act as applied by the agency administering the Act, and

(2) take into account the provisions of the International Antidumping Code only insofar as they are consistent with the Antidumping Act, 1921, as applied by the agency administering the Act.

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¹ 19 U.S.C. 160 note.

4. Export Administration

a. The Export Administration Act of 1969, as amended ¹

Public Law 91-184 [H.R. 4293], 83 Stat. 841, approved December 30, 1969, as amended by Public Law 92-284 [S.J. Res. 218], 86 Stat. 133, approved April 29, 1972; Public Law 92-412 [S. 3726], 86 Stat. 644, approved August 29, 1972; Public Law 93-327 [H.J. Res. 1057], 88 Stat. 287, approved June 30, 1974; Public Law 93-372 [H.J. Res. 1104], 88 Stat. 444, approved August 14, 1974; Public Law 93-500 [S. 3792], 88 Stat. 1552, approved October 29, 1974; and by Public Law 93-608 [H.R. 14718], 88 Stat. 1967, approved January 2, 1975; Public Law 95-52 [H.R. 5840], 91 Stat. 235, approved June 22, 1977; and by Public Law 95-223 [H.R. 7738], 91 Stat. 1625, approved December 28, 1977.

AN ACT To provide for continuation of authority for regulation of exports.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Export Administration Act of 1969".

FINDINGS

SEC. 2. The Congress makes the following findings:

(1) The availability of certain materials at home and abroad varies so that the quantity and composition of United States exports and their distribution among importing countries may affect the welfare of the domestic economy and may have an important bearing upon fulfillment of the foreign policy of the United States.

(2) The unrestricted export of materials, information, and technology without regard to whether they make a significant contribution to the military potential of any other nation or nations may adversely affect the national security of the United States.

(3) The unwarranted restriction of exports from the United States has a serious adverse effect on our balance of payments, particularly when export restrictions applied by the United States are more extensive than export restrictions imposed by countries with which the United States has defense treaty commitments.²

(4) The uncertainty of policy toward certain categories of exports has curtailed the efforts of American business in those categories to the detriment of the overall attempt to improve the trade balance of the United States.

(5) ³ Unreasonable restrictions on access to world supplies can cause worldwide political and economic instability, interfere with free international trade, and retard the growth and development of nations.

¹ 50 U.S.C. App. 2401-2413. This Act replaces the Export Control Act of 1949, 50 U.S.C. 2021-2032 (1964).

² The phrase beginning with "particularly" was added by Sec. 102 of the Equal Export Opportunity Act (Public Law 92-412).

³ Section (5) was added by Sec. 4(a) of Public Law 93-500 (88 Stat. 1552 at 1552).

DECLARATION OF POLICY

SEC. 3. The Congress makes the following declarations:

(1) It is the policy of the United States both (A) to encourage trade with all countries with which we have diplomatic or trading relations, except those countries with which such trade has been determined by the President to be against the national interest, and (B) to restrict the export of goods and technology which would make a significant contribution to the military potential of any other nation or nations which would prove detrimental to the national security of the United States.

(2) It is the policy of the United States to use export controls (A) to the extent necessary to protect the domestic economy from the excessive drain of scarce materials and to reduce the serious inflationary impact of foreign demand, (B) to the extent necessary to further significantly the foreign policy of the United States and to fulfill its international responsibilities, and (C) to the extent necessary to exercise the necessary vigilance over exports from the standpoint of their significance to the national security of the United States.

(3) It is the policy of the United States (A) to formulate, reformulate, and apply any necessary controls to the maximum extent possible in cooperation with all nations, and (B) to formulate a unified trade control policy to be observed by all such nations.

(4) It is the policy of the United States to use its economic resources and trade potential to further the sound growth and stability of its economy as well as to further its national security and foreign policy objectives.

(5) It is the policy of the United States (A) to oppose restrictive trade practices or boycotts fostered or imposed by foreign countries against other countries friendly to the United States or against any United States person,⁴ (B)⁵ to encourage and, in specified cases, to require United States persons engaged in the export of articles, materials, supplies, or information to refuse to take actions, including furnishing information or entering into or implementing agreements, which have the effect of furthering or supporting the restrictive trade practices or boycotts fostered or imposed by any foreign country against a country friendly to the United States or against any United States person, (C)⁶ to foster international cooperation and the development of international rules and institutions to assure reasonable access to world supplies.

(6)⁷ It is the policy of the United States that the desirability of subjecting, or continuing to subject, particular articles, materials, or supplies, including technical data or other information, to United States export controls should be subjected to review by and consultation with representatives of appropriate United States Government agencies and qualified experts from private industry.

(7)⁸ It is the policy of the United States to use export controls including license fees, to secure the removal by foreign countries of

⁴ The words "or against any United States person" were added by Sec. 202(a) of the Export Administration Amendments of 1977 (91 Stat. 247).

⁵ Subsection (B) was amended and restated by Sec. 202(b) of the Export Administration Amendments of 1977 (91 Stat. 247).

⁶ Subsection (C) was added by Sec. 4(c)(2) of Public Law 93-500 (88 Stat. 1552 at 1553).

⁷ Paragraph 6 added by Sec. 103 of Public Law 92-442 (86 Stat. 644).

⁸ Paragraph 7 was added by Sec. 11 of Public Law 93-500 (88 Stat. 1552 at 1556).

restrictions on access to supplies where such restrictions have or may have a serious domestic inflationary impact, have caused or may cause a serious domestic shortage, or have been imposed for purposes of influencing the foreign policy of the United States. In effecting this policy, the President shall make every reasonable effort to secure the removal or reduction of such restrictions, policies, or actions through international cooperation and agreement before resorting to the imposition of controls on the export of materials from the United States: *Provided*, That no action taken in fulfillment of the policy set forth in this paragraph shall apply to the export of medicine or medical supplies.

(8)^a It is the policy of the United States to use export controls to encourage other countries to take immediate steps to prevent the use of their territory or resources to aid, encourage, or give sanctuary to those persons involved in directing, supporting, or participating in acts of international terrorism. To achieve this objective, the President shall make every reasonable effort to secure the removal or reduction of such assistance to international terrorists through international cooperation and agreement before resorting to the imposition of export controls.

AUTHORITY

SEC. 4. (a)(1) The Secretary of Commerce shall institute such organizational and procedural changes in any office or division of the Department of Commerce which has heretofore exercised functions relating to the control of exports and continues to exercise such controls under this Act as he determines are necessary to facilitate and effectuate the fullest implementation of the policy set forth in this Act with a view to promoting trade with all nations with which the United States is engaged in trade, including trade with (A) those countries or groups of countries with which other countries or groups of countries having defense treaty commitments with the United States have a significantly larger percentage of volume of trade than does the United States, and (B) other countries eligible for trade with the United States but not significantly engaged in trade with the United States. In addition, the Secretary shall review any list of articles, materials or supplies, including technical data or other information, the exportation of which from the United States, its territories and possessions, was heretofore prohibited or curtailed with a view to making promptly such changes and revisions in such list as may be necessary or desirable in furtherance of the policy, purposes, and provisions of this Act. The Secretary shall include a detailed statement with respect to actions taken in compliance with the provisions of this paragraph in the second quarterly report (and in any subsequent report with respect to actions taken during the preceding quarter) made by him to the Congress after the date of enactment of this Act pursuant to section 10.

(2) The Secretary of Commerce shall use all practicable means available to him to keep the business sector of the Nation fully apprised of changes in export control policy and procedures instituted in conformity with this Act with a view to encouraging the widest possible trade.

^a Paragraph (8) was added by Sec. 115 of the Export Administration Amendments of 1977 (91 Stat. 241).

(b) (1) To effectuate the policies set forth in section 3 of this Act, the President may prohibit or curtail the exportation, except under such rules and regulations as he shall prescribe, of any articles, materials, or supplies, including technical data or any other information, subject to the jurisdiction of the United States or exported by any person subject to the jurisdiction of the United States.¹⁰ To the extent necessary to achieve effective enforcement of this Act, these rules and regulations may apply to the financing, transporting, and other servicing of exports and the participation therein by any person.¹¹ In curtailing the exportation of any articles, materials, or supplies to effectuate the policy set forth in section 3(2)(A) of this Act, the President is authorized and directed to allocate a portion of export licenses on the basis of factors other than a prior history of exportation.¹²

(2)¹³(A) In administering export controls for national security purposes as prescribed in section 3(2)(C) of this Act, United States policy toward individual countries shall not be determined exclusively on the basis of a country's Communist or non-Communist status but shall take into account such factors as the country's present and potential relationship to the United States, its present and potential relationship to countries friendly or hostile to the United States, its ability and willingness to control retransfers of United States exports in accordance with United States policy, and such other factors as the President may deem appropriate. The President shall periodically review United States policy toward individual countries to determine whether such policy is appropriate in light of factors specified in the preceding sentence. The results of such review, together with the justification for United States policy in light of such factors, shall be reported to Congress not later than December 31, 1978, in the semi-annual report of the Secretary of Commerce required by section 10 of this Act, and in every second such report thereafter.

(B) Rules and regulations under this subsection may provide for denial of any request or application for authority to export articles, materials, or supplies, including technical data or any other information,¹⁴ to any nation or combination of nations threatening the national

¹⁰ This sentence was amended and restated by Sec. 301(a) of Public Law 95-223 (91 Stat. 1629).

¹¹ Sec. 103(a)(1) of the Export Administration Amendments of 1977 (91 Stat. 235) struck out the third sentence of subsection (b)(1). Sec. 201(b) of the same Act (91 Stat. 246) further amended subsection (b)(1) by striking out the next to the last sentence. These sentences formerly read as follows:

"Rules and regulations may provide for denial of any request or application for authority to export articles, materials, or supplies, including technical data, or any other information, from the United States, its territories and possessions, to any nation or combination of nations threatening the national security of the United States if the President determines that their export would prove detrimental to the national security of the United States, regardless of their availability from nations other than any nation or combination of nations threatening the national security of the United States, but whenever export licenses are required on the ground that considerations of national security override considerations of foreign availability, the reasons for so doing shall be reported to the Congress in the quarterly report following the decision to require such licenses on that ground to the extent consideration of national security and foreign policy permit. The rules and regulations shall implement the provisions of section 3(5) of this Act and shall require that all domestic concerns receiving requests for the furnishing of information or the signing of agreements as specified in that section must report this fact to the Secretary of Commerce for such action as he may deem appropriate to carry out the purpose of that section."

¹² The last sentence of Sec. 4(b)(1) was added by Sec. 12 of Public Law 93-500 (88 Stat. 1557).

¹³ Paragraphs (2), (3), and (4), as added by Sec. 104 of Public Law 92-412 (86 Stat. 644) were struck out by Sec. 103(a) of the Export Administration Amendments of 1977 (91 Stat. 235), which then inserted a new paragraph (2).

¹⁴ The words "from the United States, its territories and possessions," which previously appeared at this point, were struck out by Sec. 301(b)(1) of Public Law 95-223 (91 Stat. 1629).

security of the United States if the President determines that their export would prove detrimental to the national security of the United States. The President shall not impose export controls for national security purposes on the export¹⁵ of articles, materials, or supplies, including technical data or other information, which he determines are available without restriction from sources outside the United States in significant quantities and comparable in quality to those which would be subject to such controls,¹⁶ unless the President determines that adequate evidence has been presented to him demonstrating that the absence of such controls would prove detrimental to the national security of the United States. The nature of such evidence shall be included in the semiannual report required by section 10 of this Act. Where, in accordance with this paragraph, export controls are imposed for national security purposes notwithstanding foreign availability, the President shall take steps to initiate negotiations with the governments of the appropriate foreign countries for the purpose of eliminating such availability.

(c)¹⁷ (1) To effectuate the policy set forth in section 3(2)(A) of this Act, the Secretary of Commerce shall monitor exports, and contracts for exports, of any article, material, or supply (other than a commodity which is subject to the reporting requirements of section 812 of the Agricultural Act of 1970) when the volume of such exports in relation to domestic supply contributes, or may contribute, to an increase in domestic prices or a domestic shortage, and such price increase or shortage has, or may have, a serious adverse impact on the economy or any sector thereof. Such monitoring shall commence at a time adequate to insure that data will be available which is sufficient to permit achievement of the policies of this Act.¹⁸ Information which the Secretary requires to be furnished in effecting such monitoring shall be confidential, except as provided in paragraph (2) of this subsection and in the last two sentences of section 7(c) of this Act.¹⁹

(2) The results of such monitoring shall, to the extent practicable, be aggregated and included in weekly reports setting forth, with respect to each article, material, or supply monitored, actual and anticipated exports, the destination by country, and the domestic and worldwide price, supply, and demand. Such reports may be made monthly if the Secretary determines that there is insufficient information to justify weekly reports.

(d)²⁰ Nothing in this Act, or in the rules and regulations hereunder shall be construed to require authority or permission to export, except

¹⁵ The words "from the United States", which previously appeared at this point, were struck out by Sec. 301(b)(1)(B) of Public Law 95-223 (91 Stat. 1629).

¹⁶ Sec. 301(b)(1)(B) of Public Law 95-223 (91 Stat. 1629) inserted the words "which would be subject to such controls" in lieu of "produced in the United States".

¹⁷ Subsection (c) was added by Sec. 3(a) of Public Law 93-500 (88 Stat. 1552). Public Law 93-500 also redesignated subsections (c) through (e) of Section 4 as subsection (d) through (f), respectively.

¹⁸ This sentence was added by Sec. 104 of the Export Administration Amendments of 1977 (91 Stat. 237).

¹⁹ The words "and in the last two sentences of section 7(c) of this Act" were added by Sec. 113(b) of the Export Administration Amendments of 1977 (91 Stat. 241).

²⁰ Subsection (d) was amended by Sec. 7 of Public Law 93-500 (88 Stat. 1552 at 1554). This subsection formerly read as follows:

"Nothing in this Act, or in the rules and regulations authorized by it, shall in any way be construed to require authority and permission to export articles, materials, supplies, data, or information except where the national security, the foreign policy of the United States, or the need to protect the domestic economy from the excessive drain of scarce materials makes such requirement necessary."

where required by the President to effect the policies set forth in section 3 of this Act.

(e) The President may delegate the power, authority, and discretion conferred upon him by this Act to such departments, agencies, or officials of the Government as he may deem appropriate.

(f)²¹ (1) The authority conferred by this section shall be exercised with respect to any agricultural commodity, including fats and oils or animal hides or skins, without the approval of the Secretary of Agriculture. The Secretary of Agriculture shall not approve the exercise of such authority with respect to any such commodity during any period for which the supply of such commodity is determined by him to be in excess of the requirements of the domestic economy, except to the extent the President determines that such exercise of authority is required to effectuate the policies set forth in clause (B) or (C) of paragraph (2) of section 3 of this Act.

(2)²² Upon approval of the Secretary of Commerce, in consultation with the Secretary of Agriculture, agricultural commodities purchased by or for use in a foreign country may remain in the United States for export at a later date free from any quantitative limitations on export which may be imposed pursuant to section 3(2) (A) of this Act subsequent to such approval. The Secretary of Commerce may not grant approval hereunder unless he receives adequate assurance and, in conjunction with the Secretary of Agriculture, finds that such commodities will eventually be exported, that neither the sale nor export thereof will result in an excessive drain of scarce materials and have a serious domestic inflationary impact, that storage of such commodities in the United States will not unduly limit the space available for storage of domestically owned commodities, and that the purpose of such storage is to establish a reserve of such commodities for later use, not including resale to or use by another country. The Secretary of Commerce is authorized to issue such rules and regulations as may be necessary to implement this paragraph.

(3)²³ If the authority conferred by this section is exercised to prohibit or curtail the exportation of any agricultural commodity in order to effectuate the policies set forth in clause (A) or (B) of paragraph (2) of section 3 of this Act, the President shall immediately report such prohibition or curtailment to the Congress, setting forth the reasons therefor in detail. If the Congress, within 30 days after the date of its receipt of such report, adopts a concurrent resolution disapproving such prohibition or curtailment, then such prohibition or curtail-

²¹ As amended by Sec. 104(b)(1) of Public Law 91-412, Sec. 4(e) of the Act (redesignated Sec. 4(f) by Public Law 93-500) formerly read:

"The authority conferred by this section shall not be exercised with respect to any agricultural commodity including fats and oils, during any period for which the supply of such commodity is determined by the Secretary of Agriculture to be in excess of the requirements of the domestic economy, except to the extent required to effectuate the policies set forth in clause (B) or (C) of paragraph (2) of section 3 of this Act."

Sec. 104(b)(2) of Public Law 92-412 also provided that:

"Any rule, regulation, proclamation, or order issued after July 1, 1972, under section 4 of the Export Administration Act of 1969, exercising any authority conferred by such section with respect to any agricultural commodity, including fats and oils or animal hides or skins, shall cease to be effective upon the date of enactment of this Act." (August 29, 1972.)

²² Paragraph (2) was added by Sec. 105(2) of the Export Administration Amendments of 1977 (91 Stat. 237).

²³ Paragraph (3) was added by Sec. 106 of the Export Administration Amendments of 1977 (91 Stat. 238).

ment shall cease to be effective with the adoption of such resolution. In the computation of such 30-day period, there shall be excluded the days on which either House is not in session because of an adjournment of more than 3 days to a day certain or because of an adjournment of the Congress sine die.

(g)²⁴ (1) It is the intent of Congress that any export license application required under this Act shall be approved or disapproved within 90 days of its receipt. Upon the expiration of the 90-day period beginning on the date of its receipt, any export license application required under this Act which has not been approved or disapproved shall be deemed to be approved and the license shall be issued unless the Secretary of Commerce or other official exercising authority under this Act finds that additional time is required and notifies the applicant in writing of the specific circumstances requiring such additional time and the estimated date when the decision will be made.

(2) (A) With respect to any export license application not finally approved or disapproved within 90 days of its receipt as provided in paragraph (1) of this subsection, the applicant shall, to the maximum extent consistent with the national security of the United States, be specifically informed in writing of questions raised and negative considerations or recommendations made by any agency or department of the Government with respect to such license application, and shall be accorded an opportunity to respond to such questions, considerations, or recommendations in writing prior to final approval or disapproval by the Secretary of Commerce or other official exercising authority under this Act. In making such final approval or disapproval, the Secretary of Commerce or other official exercising authority under this Act shall take fully into account the applicant's response.

(B) Whenever the Secretary determines that it is necessary to refer an export license application to an interagency review process for approval, he shall first, if the applicant so requests, provide the applicant with an opportunity to review any documentation to be submitted to such process for the purpose of describing the export in question, in order to determine whether such documentation accurately describes the proposed export.

(3) In any denial of an export license application, the applicant shall be informed in writing of the specific statutory basis for such denial.

(h)²⁵ (1) The Congress finds that the defense posture of the United States may be seriously compromised if the Nation's goods and technology are exported to a controlled country²⁶ without an adequate and knowledgeable assessment being made to determine whether export of

²⁴ Subsection (g), as originally added by Sec. 5(a) of Public Law 93-500 (88 Stat. 1553), was amended and restated by Sec. 107 of the Export Administration Amendments of 1977 (91 Stat. 238). Subsection (g) formerly read as follows:

"(g) Any export license application required by the exercise of authority under this Act to effectuate the policies of section 3(1)(B) or 3(2)(C) shall be approved or disapproved not later than 90 days after its submission. If additional time is required, the Secretary of Commerce or other official exercising authority under this Act shall inform the applicant of the circumstances requiring such additional time and give an estimate of when his decision will be made."

²⁵ Subsection (h) was added by Sec. 9 of Public Law 93-500 (88 Stat. 1552 at 1555).
²⁶ Sec. 103(b)(1) of the Export Administration Amendments of 1977 (91 Stat. 236) provides that the words "controlled country" should be struck out and replaced by the words "country to which exports are restricted for national security purposes". However, Sec. 103(b)(4) of the same Act specifies that such amendments shall not become effective until the end of a 90 day period following the receipt by Congress of the report required by Sec. 4(b)(2) above. This report is not due until December 31, 1978.

such goods and technology will make a significant contribution to the military potential of such country.²⁷ It is the purpose of this subsection to provide for such an assessment and to authorize the Secretary of Defense to review any proposed export of goods or technology to any such country and, whenever he determines that the export of such goods or technology will make a significant contribution, which would prove detrimental to the national security of the United States, to the military potential of any such country,²⁸ to recommend to the President that such export be disapproved.

(2) Notwithstanding any other provision of law, the Secretary of Defense shall determine, in consultation with the export control office to which licensing requests are made, the types and categories of transactions which should be reviewed by him to carry out the purpose of this subsection. Whenever a license or other authority is requested for the export of such goods or technology to any controlled country,²⁶ the appropriate export control office or agency to whom such request is made shall notify the Secretary of Defense of such request, and such office may not issue any license or other authority pursuant to such request prior to the expiration of the period within which the President may disapprove such export. The Secretary of Defense shall carefully consider all notifications submitted to him pursuant to this subsection and, not later than 30 days after notification of the request shall—

(A) recommend to the President that he disapprove any request for the export of any goods or technology to any controlled²⁹ country if he determines that the export of such goods or technology will make a significant contribution, which would prove detrimental to the national security of the United States, to the military potential of such country or any other country;²⁸

(B) notify such office or agency that he will interpose no objection if appropriate conditions designed to achieve the purposes of this Act are imposed; or

(C) indicate that he does not intend to interpose an objection to the export of such goods or technology.

If the President notifies such office or agency, within 30 days after receiving a recommendation from the Secretary, that he disapproves such export, no license or other authorization may be issued for the export of such goods or technology to such country.

(3) Whenever the President exercises his authority under this subsection to modify or overrule a recommendation made by the Secretary of Defense pursuant to this section, the President shall submit to the Congress a statement indicating his decision together with the recommendation of the Secretary of Defense.

²⁷ Sec. 103(c)(1) of the Export Administration Amendments of 1977 (91 Stat. 236) struck out the words "significantly increase the military capability of such country" which had previously appeared at this point and inserted the words "make a significant contribution to the military potential of such country".

²⁸ Sec. 103(c) of the Export Administration Amendments of 1977 (91 Stat. 236) struck out the words "significantly increase the military capability of such country" which had previously appeared at this point, and inserted the words beginning with "make a significant contribution . . .".

²⁹ Sec. 103(b)(2) of the Export Administration Amendments of 1977 (91 Stat. 236) provides that the word "controlled" should be struck and replaced by the word "such". However, for effective date of this amendment, see footnote 26 on page 127.

(4) As used in this subsection—

(A) the term “goods or technology” means—

(i) machinery, equipment, capital goods, or computer software; or

(ii) any license or other arrangement for the use of any patent, trade secret, design, or plan with respect to any item described in clause (i);

(B) the term “export control office” means any office or agency of the United States Government whose approval or permission is required pursuant to existing law for the export of goods or technology; and

(C)³⁰ the term “controlled country” means any Communist country as defined under section 620(f) of the Foreign Assistance Act of 1961.

(i)³¹ In imposing export controls to effectuate the policy stated in section 3(2)(A) of this Act, the President’s authority shall include but not be limited to, the imposition of export license fees.

(j)³² Petroleum products refined in United States Foreign-Trade Zones, or in the United States Territory of Guam, from foreign crude oil shall be excluded from any quantitative restrictions imposed pursuant to section 3(2)(A) of this Act, except that, if the Secretary of Commerce finds that a product is in short supply, the Secretary of Commerce may issue such rules and regulations as may be necessary to limit exports.

(k)³³ (1) Notwithstanding any other provision of this Act, no horse may be exported by sea from the United States, its territories and possessions, unless such horse is part of a consignment of horses with respect to which a waiver has been granted under paragraph (2) of this subsection.

(2) The Secretary of Commerce, in consultation with the Secretary of Agriculture, may issue rules and regulations providing for the granting of waivers permitting the export by sea of a specified consignment of horses, if the Secretary of Commerce, in consultation with the Secretary of Agriculture, determines that no horse in that consignment is being exported for purposes of slaughter.

(l)³⁴ (1) Notwithstanding any other provision of this Act and notwithstanding subsection (u) of section 28 of the Mineral Leasing Act of 1920, no domestically produced crude oil transported by pipeline over rights-of-way granted pursuant to such section 28 (except any such crude oil which (A) is exchanged in similar quantity for convenience or increased efficiency of transportation with persons or the government of an adjacent foreign state, or (B) is temporarily exported for convenience or increased efficiency of transportation across parts of an adjacent foreign state and reenters the United States) may be exported from the United States, its territories and possessions,

³⁰ Sec. 103(b)(3) of the Export Administration Amendments of 1977 (91 Stat. 236) provides that clause (C) should be struck. However, for effective date of this amendment, see footnote 26 on page 127.

³¹ Subsection (i) was added by Sec. 10 of Public Law 93-500 (88 Stat. 1552 at 1556).
³² Subsection (j) was added by Sec. 108 of the Export Administration Amendments of 1977 (91 Stat. 239).

³³ Subsection (k) was added by Sec. 109 of the Export Administration Amendments of 1977 (91 Stat. 239).

³⁴ Subsection (l) was added by Sec. 110 of the Export Administration Amendments of 1977 (91 Stat. 239).

during the 2-year period beginning on the date of enactment of this subsection unless the requirements of paragraph (2) of this subsection are met.

(2) Crude oil subject to the prohibition contained in paragraph (1) may be exported only if—

(A) the President makes and publishes an express finding that exports of such crude oil—

(i) will not diminish the total quantity or quality of petroleum available to the United States,

(ii) will have a positive effect on consumer oil prices by decreasing the average crude oil acquisition costs of refiners,

(iii) will be made only pursuant to contracts which may be terminated if the petroleum supplies of the United States are interrupted or seriously threatened,

(iv) are in the national interest, and

(v) are in accordance with the provisions of this Act; and

(B) the President reports such findings to the Congress as an energy action (as defined in section 551 of the Energy Policy and Conservation Act).

The congressional review provisions of such section 551 shall apply to an energy action reported in accordance with this paragraph, except that for purposes of this paragraph, any reference in such section to a period of 15 calendar days of continuous session of Congress shall be deemed to be a reference to a period of 60 calendar days of continuous session of Congress and the period specified in subsection (f) (4) (A) of such section for committee action on a resolution shall be deemed to be 40 calendar days.

FOREIGN BOYCOTTS

SEC. 4A.³⁵ (a) (1) For the purpose of implementing the policies set forth in section 3(5) (A) and (B), the President shall issue rules and regulations prohibiting any United States person, with respect to his activities in the interstate or foreign commerce of the United States, from taking or knowingly agreeing to take any of the following actions with intent to comply with, further, or support any boycott fostered or imposed by a foreign country against a country which is friendly to the United States and which is not itself the object of any form of boycott pursuant to United States law or regulation:

(A) Refusing, or requiring any other person to refuse, to do business with or in the boycotted country, with any business concern organized under the laws of the boycotted country, with any national or resident of the boycotted country, or with any other person, pursuant to an agreement with, a requirement of, or a request from or on behalf of the boycotting country. The mere absence of a business relationship with or in the boycotted country, with any business concern organized under the laws of the boycotted country, with any national or resident of the boycotted country, or with any other person, does not indicate the existence of the intent required to establish a violation of rules and regulations issued to carry out this subparagraph.

³⁵ Sec. 201(a) of the Export Administration Amendments of 1977 (91 Stat. 244) redesignated Sec. 4A as Sec. 4B and added this new Sec. 4A.

(B) Refusing, or requiring any other person to refuse, to employ or otherwise discriminating against any United States person on the basis of race, religion, sex, or national origin of that person or of any owner, officer, director, or employee of such person.

(C) Furnishing information with respect to the race, religion, sex, or national origin of any United States person or of any owner, officer, director, or employee of such person.

(D) Furnishing information about whether any person has, has had, or proposes to have any business relationship (including a relationship by way of sale, purchase, legal or commercial representation, shipping or other transport, insurance, investment, or supply) with or in the boycotted country, with any business concern organized under the laws of the boycotted country, with any national or resident of the boycotted country, or with any other person which is known or believed to be restricted from having any business relationship with or in the boycotting country. Nothing in this paragraph shall prohibit the furnishing of normal business information in a commercial context as defined by the Secretary of Commerce.

(E) Furnishing information about whether any person is a member of, has made contributions to, or is otherwise associated with or involved in the activities of any charitable or fraternal organization which supports the boycotted country.

(F) Paying, honoring, confirming, or otherwise implementing a letter of credit which contains any condition or requirement compliance with which is prohibited by rules and regulations issued pursuant to this paragraph, and no United States person shall, as a result of the application of this paragraph, be obligated to pay or otherwise honor or implement such letter of credit.

(2) Rules and regulations issued pursuant to paragraph (1) shall provide exceptions for—

(A) complying or agreeing to comply with requirements (i) prohibiting the import of goods or services from the boycotted country or goods produced or services provided by any business concern organized under the laws of the boycotted country or by nationals or residents of the boycotted country, or (ii) prohibiting the shipment of goods to the boycotting country on a carrier of the boycotted country, or by a route other than that prescribed by the boycotting country or the recipient of the shipment;

(B) complying or agreeing to comply with import and shipping document requirements with respect to the country of origin, the name of the carrier and route of shipment, the name of the supplier of the shipment or the name of the provider of other services, except that no information knowingly furnished or conveyed in response to such requirements may be stated in negative, blacklisting, or similar exclusionary terms after the expiration of 1 year following the date of enactment of the Export Administration Amendments of 1977³⁶ other than with respect to carriers or route of shipment as may be permitted by such rules and regulations in order to comply with precautionary requirements protecting against war risks and confiscation;

³⁶ June 22, 1978.

(C) complying or agreeing to comply in the normal course of business with the unilateral and specific selection by a boycotting country, or national or resident thereof, of carriers, insurers, suppliers of services to be performed within the boycotting country or specific goods which, in the normal course of business, are identifiable by source when imported into the boycotting country;

(D) complying or agreeing to comply with export requirements of the boycotting country relating to shipments or transshipments of exports to the boycotted country, to any business concern of or organized under the laws of the boycotted country, or to any national or resident of the boycotted country;

(E) compliance by an individual or agreement by an individual to comply with the immigration or passport requirements of any country with respect to such individual or any member of such individual's family or with requests for information regarding requirements of employment of such individual within the boycotting country; and

(F) compliance by a United States person resident in a foreign country or agreement by such person to comply with the laws of that country with respect to his activities exclusively therein, and such rules and regulations may contain exceptions for such resident complying with the laws or regulations of that foreign country governing imports into such country of trademarked, trade-named, or similarly specifically identifiable products or components of products for his own use, including the performance of contractual services within that country, as may be defined by such rules and regulations.

(3) Rules and regulations issued pursuant to paragraphs (2)(C) and (2)(F) shall not provide exceptions from paragraphs (1)(B) and (1)(C).

(4) Nothing in this subsection may be construed to supersede or limit the operation of the antitrust or civil rights laws of the United States.

(5) Rules and regulations pursuant to this subsection shall be issued not later than 90 days after the date of enactment of this section and shall be issued in final form and become effective not later than 120 days after they are first issued, except that (A) rules and regulations prohibiting negative certification may take effect not later than 1 year after the date of enactment of this section, and (B) a grace period shall be provided for the application of the rules and regulations issued pursuant to this subsection to actions taken pursuant to a written contract or other agreement entered into on or before May 16, 1977. Such grace period shall end on December 31, 1978, except that the Secretary of Commerce may extend the grace period for not to exceed 1 additional year in any case in which the Secretary finds that good faith efforts are being made to renegotiate the contract or agreement in order to eliminate the provisions which are inconsistent with the rules and regulations issued pursuant to paragraph (1).

(6) This Act shall apply to any transaction or activity undertaken, by or through a United States or other person, with intent to evade the provisions of this Act as implemented by the rules and regulations issued pursuant to this subsection, and such rules and regulations shall

expressly provide that the exceptions set forth in paragraph (2) shall not permit activities or agreements (expressed or implied by a course of conduct, including a pattern of responses) otherwise prohibited, which are not within the intent of such exceptions.

(b) (1) In addition to the rules and regulations issued pursuant to subsection (a) of this section, rules and regulations issued under section 4(b) of this Act shall implement the policies set forth in section 3(5).

(2) Such rules and regulations shall require that any United States person receiving a request for the furnishing of information, the entering into or implementing of agreements, or the taking of any other action referred to in section 3(5) shall report that fact to the Secretary of Commerce, together with such other information concerning such request as the Secretary may require for such action as he may deem appropriate for carrying out the policies of that section. Such person shall also report to the Secretary of Commerce whether he intends to comply and whether he has complied with such request. Any report filed pursuant to this paragraph after the date of enactment of this section shall be made available promptly for public inspection and copying, except that information regarding the quantity, description, and value of any articles, materials, and supplies, including technical data and other information, to which such report relates may be kept confidential if the Secretary determines that disclosure thereof would place the United States person involved at a competitive disadvantage. The Secretary of Commerce shall periodically transmit summaries of the information contained in such reports to the Secretary of State for such action as the Secretary of State, in consultation with the Secretary of Commerce, may deem appropriate for carrying out the policies set forth in section 3(5) of this Act.

PROCEDURES FOR HARDSHIP RELIEF FROM EXPORT CONTROLS

SEC. 4B.³⁷ (a) Any person who, in his domestic manufacturing process or other domestic business operation, utilizes a product produced abroad in whole or in part from a commodity historically obtained from the United States but which has been made subject to export controls, or any person who historically has exported such a commodity, may transmit a petition of hardship to the Secretary of Commerce requesting an exemption from such controls in order to alleviate any unique hardship resulting from the imposition of such controls. A petition under this section shall be in such form as the Secretary of Commerce shall prescribe and shall contain information demonstrating the need for the relief requested.

(b) Not later than 30 days after receipt of any petition under subsection (a), the Secretary of Commerce shall transmit a written decision to the petitioner granting or denying the requested relief. Such decision shall contain a statement setting forth the Secretary's basis for the grant or denial. Any exemption granted may be subject to such conditions as the Secretary deems appropriate.

³⁷ Sec. 4A was added by Sec. 8 of Public Law 93-500 (88 Stat. 1554). It was later redesignated as Sec. 4B by Sec. 201(a) of the Export Administration Amendments of 1977 (91 Stat. 244).

(c) For purposes of this section, the Secretary's decision with respect to the grant or denial of relief from unique hardship resulting directly or indirectly from the imposition of controls shall reflect the Secretary's consideration of such factors as—

(1) Whether denial would cause a unique hardship to the applicant which can be alleviated only by granting an exception to the applicable regulations. In determining whether relief shall be granted, the Secretary will take into account:

(A) ownership of material for which there is no practicable domestic market by virtue of the location or nature of the material;

(B) potential serious financial loss to the applicant if not granted an exception;

(C) inability to obtain, except through import, an item essential for domestic use which is produced abroad from the commodity under control;

(D) the extent to which denial would conflict, to the particular detriment of the applicant, with other national policies including those reflected in any international agreement to which the United States is a party;

(E) possible adverse effects on the economy (including unemployment) in any locality or region of the United States; and

(F) other relevant factors, including the applicant's lack of an exporting history during any base period that may be established with respect to export quotas for the particular commodity.

(2) The effect a finding in favor of the applicant would have on attainment of the basic objectives of the short supply control program.

In all cases, the desire to sell at higher prices and thereby obtain greater profits will not be considered as evidence of a unique hardship, nor will circumstances where the hardship is due to imprudent acts or failure to act on the part of the appellant.

CONSULTATION AND STANDARDS

SEC. 5. (a) In determining what shall be controlled or monitored under this Act, and in determining the extent to which exports shall be limited, any department, agency, or official making these determinations shall seek information and advice from the several executive departments and independent agencies concerned with aspects of our domestic and foreign policies and operations having an important bearing on exports. Such departments and agencies shall fully cooperate in rendering such advice and information.³⁸ Consistent with considerations of national security, the President shall from time to time seek information and advice from various segments of private industry in connection with the making of these determinations. In addition, the Secretary of Commerce shall consult with the Federal Energy Administration to determine whether monitoring under section 4 of this Act is warranted with respect to exports of facilities, machinery,

³⁸ This sentence was added by Sec. 3 of Public Law 93-500 (88 Stat. 1552 at 1553).

or equipment normally and principally used, or intended to be used, in the production, conversion, or transportation of fuels and energy (except nuclear energy), including but not limited to, drilling rigs, platforms, and equipment; petroleum refineries, natural gas processing, liquefaction, and gasification plants; facilities for production of synthetic natural gas or synthetic crude oil; oil and gas pipelines, pumping stations, and associated equipment; and vessels for transporting oil, gas, coal, and other fuels.

(b) (1) In authorizing exports, full utilization of private competitive trade channels shall be encouraged insofar as practicable, giving consideration to the interests of small business, merchant exporters as well as producers, and established and new exporters, and provision shall be made for representative trade consultation to that end. In addition, there may be applied such other standards or criteria as may be deemed necessary by the head of such department, or agency, or official to carry out the policies of this Act.

(2)³⁹ Upon imposing quantitative restrictions on exports of any article, material, or supply to carry out the policy stated in section 3(2) (A) of this Act, the Secretary of Commerce shall include in his notice published in the Federal Register an invitation to all interested parties to submit written comments within 15 days from the date of publication on the impact of such restrictions and the method of licensing used to implement them.

(c) ⁴⁰ (1) Upon written request by representatives of a substantial segment of any industry which produces articles, materials and supplies, including technical data and other information, which are subject to export controls or are being considered for such controls because of their significance to the national security of the United States, the Secretary of Commerce shall appoint a technical advisory committee for any grouping of such articles, materials, and supplies, including technical data and other information, which he determines is difficult to evaluate because of questions concerning technical matters, worldwide availability and actual utilization of production and technology, or licensing procedures. Each such committee shall consist of representatives of United States industry and Government, including the Departments of Commerce, Defense, and State, and, when appropriate, other Government departments and agencies.⁴¹ No person serving on any such committee who is representative of industry shall serve on such committee for more than four ⁴² consecutive years.

(2) It shall be the duty and function of the technical advisory committees established under paragraph (1) to advise and assist the Secretary of Commerce and any other department, agency, or official of the Government of the United States to which the President has delegated power, authority, and discretion under section 4(d) with respect to actions designed to carry out the policy set forth in section 3 of this Act. Such committees, where they have expertise in such

³⁹ Subsection (2) was added by Sec. 6(2) of Public Law 93-500 (88 Stat. 1552 at 1554).

⁴⁰ Sec. 5(c) was added by Sec. 105 of Public Law 92-412 (86 Stat. 645).

⁴¹ This sentence was amended by Sec. 5(b) of Public Law 93-500 (88 Stat. 1552 at 1553). The sentence formerly read as follows: "Each committee shall consist of representatives of United States industry and government."

⁴² Sec. 111(a) of the Export Administration Amendments of 1977 (91 Stat. 240) struck out the word "two" and inserted "four."

matters, shall be consulted with respect to questions involving (A) technical matters, (B) worldwide availability and actual utilization of production technology, (C) licensing procedures which affect the level of export controls applicable to any articles, materials, and supplies, including technical data or other information, and (D) exports subject to multilateral controls in which the United States participates including proposed revisions of any such multilateral controls. The Secretary shall include in each semiannual report required by section 10 of this Act an accounting of the consultations undertaken pursuant to this paragraph, the use made of the advice rendered by the technical advisory committees pursuant to this paragraph, and the contributions of the technical advisory committees to carrying out the policies of this Act.⁴³ Nothing in this subsection shall prevent the Secretary from consulting, at any time, with any person representing industry or the general public regardless of whether such person is a member of a technical advisory committee. Members of the public shall be given a reasonable opportunity, pursuant to regulations prescribed by the Secretary of Commerce, to present evidence to such committees.

(3) Upon request of any member of any such committee, the Secretary may, if he determines it appropriate, reimburse such member for travel, subsistence, and other necessary expenses incurred by him in connection with his duties as a member.

(4) Each such committee shall elect a chairman, and shall meet at least every three months at the call of the Chairman, unless the Chairman determines, in consultation with the other members of the committee, that such a meeting is not necessary to achieve the purposes of this Act. Each such committee shall be terminated after a period of 2 years, unless extended by the Secretary for additional periods of 2 years. The Secretary shall consult each such committee with regard to such termination or extension of that committee.

(5)⁴⁴ To facilitate the work of the technical advisory committees, the Secretary of Commerce, in conjunction with other departments and agencies participating in the administration of this Act, shall disclose to each such committee adequate information, consistent with national security, pertaining to the reasons for the export controls which are in effect or contemplated for the grouping of articles, materials, and supplies with respect to which that committee furnishes advice.

VIOLATIONS

SEC. 6. (a) Except as provided in subsection (b) of this section, whoever knowingly violates any provision of this Act or any regulation, order, or license issued thereunder shall be fined not more than

⁴³ The previous two sentences were amended and restated by Sec. 111 of the Export Administration Amendments of 1977 (91 Stat. 240). These sentences formerly read as follows:

"Such committees shall be consulted with respect to questions involving technical matters, worldwide availability and actual utilization of production and technology, and licensing procedures which may affect the level of export controls applicable to any articles, materials, or supplies, including technical data or other information, and including those whose export is subject to multilateral controls undertaken with nations with which the United States has defense treaty commitments, for which the committees have expertise. Such committees shall also be consulted and kept fully informed of progress with respect to the investigation required by section 4(b)(2) of this Act."

⁴⁴ Paragraph (5) was added by Sec. 5(c) of Public Law 93-500 (88 Stat. 1552 at 1553).

\$25,000⁴⁵ or imprisoned not more than one year, or both. For a second or subsequent offense, the offender shall be fined not more than three times the value of the exports involved or \$50,000,⁴⁵ whichever is greater, or imprisoned not more than 5 years, or both.

(b) Whoever willfully exports anything contrary to any provision of this Act or any regulation, order, or license issued thereunder, with knowledge that such exports will be used for the benefit of any country to which exports are restricted for national security or foreign policy purposes,⁴⁶ shall be fined not more than five times the value of the exports involved or \$50,000,⁴⁷ whichever is greater, or imprisoned not more than five years, or both.

(c) (1) The head of any department or agency exercising any functions under this Act, or any officer or employee of such department or agency specifically designated by the head thereof, may impose a civil penalty not to exceed \$10,000⁴⁸ for each violation of this Act or any regulation, order, or license issued under this Act, either in addition to or in lieu of any other liability or penalty which may be imposed.

(2) ⁴⁹ (A) The authority of this Act to suspend or revoke the authority of any United States person to export articles, materials, supplies, or technical data or other information,⁵⁰ may be used with respect to any violation of the rules and regulations issued pursuant to section 4A(a) of this Act:

(B) Any administrative sanction (including any civil penalty or any suspension or revocation of authority to export) imposed under this Act for a violation of the rules and regulations issued pursuant to section 4A(a) of this Act may be imposed only after notice and opportunity for an agency hearing on the record in accordance with sections 554 through 557 of title 5, United States Code.

(C) Any charging letter or other document initiating administrative proceedings for the imposition of sanctions for violations of the rules and regulations issued pursuant to section 4A(a) of this Act shall be made available for public inspection and copying.

(d) The payment of any penalty imposed pursuant to subsection (c) may be made a condition, for a period not exceeding one year after the imposition of such penalty, to the granting, restoration, or continuing validity of any export license, permission, or privilege granted or to be granted to the person upon whom such penalty is imposed. In addition, the payment of any penalty imposed under subsection (c) may be deferred or suspended in whole or in part for a period of time no longer than any probation period (which may exceed one year) that may be imposed upon such person. Such a deferral or suspension shall not operate as a bar to the collection of the penalty

⁴⁵ Sec. 112(a) of the Export Administration Amendments of 1977 (91 Stat. 240) struck out "\$10,000" and "\$20,000" and inserted "\$25,000" and "\$50,000", respectively.

⁴⁶ Sec. 103(d) of the Export Administration Amendments of 1977 (91 Stat. 237) struck out the words "Communist dominated nation" which previously appeared at this point, and inserted the words "country to which exports are restricted for national security or foreign policy purposes".

⁴⁷ Sec. 112(b) of the Export Administration Amendments of 1977 (91 Stat. 240) struck out "\$20,000" and inserted "\$50,000".

⁴⁸ Sec. 112(c) of the Export Administration Amendments of 1977 (91 Stat. 240) struck out "\$1,000" and inserted "\$10,000".

⁴⁹ Paragraph (2) was added by Sec. 203(a) of the Export Administration Amendments of 1977 (91 Stat. 247).

⁵⁰ The words "from the United States, its territories or possessions.", which previously appeared at this point, were struck out by Sec. 301(b)(2) of Public Law 95-223 (91 Stat. 1629).

in the event that the conditions of the suspension, deferral, or probation are not fulfilled.⁵¹

(e) Any amount paid in satisfaction of any penalty imposed pursuant to subsection (c) shall be covered into the Treasury as a miscellaneous receipt. The head of the department or agency concerned may, in his discretion, refund any such penalty, within two years after payment, on the ground of a material error of fact or law in the imposition. Notwithstanding section 1346(a) of title 28 of the United States Code, no action for the refund of any such penalty may be maintained in any court.

(f) In the event of the failure of any person to pay a penalty imposed pursuant to subsection (c), a civil action for the recovery thereof may, in the discretion of the head of the department or agency concerned, be brought in the name of the United States. In any such action, the court shall determine de novo all issues necessary to the establishment of liability. Except as provided in this subsection and in subsection (d), no such liability shall be asserted, claimed, or recovered upon by the United States in any way unless it has previously been reduced to judgment.

(g) Nothing in subsection (c), (d), or (f) limits

(1) the availability of other administrative or judicial remedies with respect to violations of this Act, or any regulation, order, or license issued under this Act;

(2) the authority to compromise and settle administrative proceedings brought with respect to violations of this Act, or any regulation, order, or license issued under this Act; or

(3) the authority to compromise, remit, or mitigate seizures and forfeitures pursuant to section 1(b) of title VI of the Act of June 15, 1917 (22 U.S.C. 401(b)).

ENFORCEMENT

SEC. 7. (a) To the extent necessary or appropriate to the enforcement of this Act or to the imposition of any penalty, forfeiture, or liability arising under the Export Control Act of 1949, the head of any department or agency exercising any function thereunder (and officers or employees of such department or agency specifically designated by the head thereof) may make such investigations and obtain such information from, require such reports or the keeping of such records by, make such inspection of the books, records, and other writings, premises, or property of, and take the sworn testimony of, any person. In addition, such officers or employees may administer oaths or affirmations, and may by subpoena require any person to appear and testify or to appear and produce books, records, and other writings, or both, and in the case of contumacy by, or refusal to obey a subpoena issued to, any such person, the district court of the United States for any district in which such person is found or resides or transacts business, upon application, and after notice to any such person and hearing, shall have jurisdiction to issue an order requiring such per-

⁵¹ The final two sentences of subsection (d) were added by Sec. 112(d) of the Export Administration Amendments of 1977 (91 Stat. 240).

son to appear and give testimony or to appear and produce books, records, and other writings, or both, and any failure to obey such order of the court may be punished by such court as a contempt thereof.

(b) No person shall be excused from complying with any requirements under this section because of his privilege against self-incrimination, but the immunity provisions of the Compulsory Testimony Act of February 11, 1893 (27 Stat. 443; 49 U.S.C. 46) shall apply with respect to any individual who specifically claims such privilege.

(c) Except as otherwise provided by the third sentence in section 4A(b)(2) and by section 6(c)(2)(C) of this Act, no⁵² department, agency, or official exercising any functions under this Act shall publish or disclose information obtained hereunder which is deemed confidential or with reference to which a request for confidential treatment is made by the person furnishing such information, unless the head of such department or agency determines that the withholding thereof is contrary to the national interest. Nothing in this Act shall be construed as authorizing the withholding of information from Congress, and any information obtained under this Act, including any report or license application required under section 4(b), shall be made available upon request to any committee or subcommittee of Congress of appropriate jurisdiction. No such committee or subcommittee shall disclose any information obtained under this Act which is submitted on a confidential basis unless the full committee determines that the withholding thereof is contrary to the national interest.⁵³

NOTE.—Sec. 107 of the Equal Export Opportunity Act (Public Law 92-412) stated that:

“Nothing in this title shall be construed to require the release or publication of information which is classified pursuant to Executive order or to affect the confidentiality safeguards provided in section 7(c) of the Export Administration Act of 1969.”

(d) In the administration of this Act, reporting requirements shall be so designated as to reduce the cost of reporting, recordkeeping, and export documentation required under this Act to the extent feasible consistent with effective enforcement and compilation of useful trade statistics. Reporting, recordkeeping, and export documentation requirements shall be periodically reviewed and revised in the light of developments in the field of information technology. A detailed statement with respect to any action taken in compliance with this subsection shall be included in the first quarterly report made pursuant to section 10 after such action is taken.

(e)⁵⁴ The Secretary of Commerce, in consultation with appropriate United States Government departments and agencies and with appropriate technical advisory committees established under section 5(c),

⁵² Sec. 201(c) of the Export Administration Amendments of 1977 (91 Stat. 246) struck out the word “No” and inserted the words to this point in subsection (c).

⁵³ The final two sentences of subsection (c) were added by Sec. 113(a) of the Export Administration Amendments of 1977 (91 Stat. 241).

⁵⁴ Subsection (e) was added by Sec. 114 of the Export Administration Amendments of 1977 (91 Stat. 241).

shall review the rules and regulations issued under this Act and the lists of articles, materials, and supplies which are subject to export controls in order to determine how compliance with the provisions of this Act can be facilitated by simplifying such rules and regulations, by simplifying or clarifying such lists, or by any other means. Not later than 1 year after the enactment of this subsection, the Secretary of Commerce shall report to Congress on the actions taken on the basis of such review to simplify such rules and regulations. Such report may be included in the semiannual report required by section 10 of this Act.

EXEMPTION FROM CERTAIN PROVISIONS RELATING TO ADMINISTRATIVE PROCEDURE AND JUDICIAL REVIEW

SEC. 8. Except as provided in section 6(c) (2), the⁵⁵ functions exercised under this Act are excluded from the operation of sections 551, 553-559, and 701-706, of title 5 United States Code.

INFORMATION TO EXPORTERS

SEC. 9. In order to enable United States exporters to coordinate their business activities with the export control policies of the United States Government, the agencies, departments, and officials responsible for implementing the rules and regulations authorized under this Act shall, if requested, and insofar as it is consistent with the national security, the foreign policy of the United States, the effective administration of this Act, and requirements of confidentiality contained in this Act—

(1) inform each exporter of the considerations which may cause his export license request to be denied or to be the subject of lengthy examination;

(2) in the event of undue delay inform each exporter of the circumstances arising during the Government's consideration of his export license application which are cause for denial or for further examination;

(3) give each exporter the opportunity to present evidence and information which he believes will help the agencies, departments, and officials concerned to resolve any problems or questions which are, or may be, connected with his request for a license; and

(4) inform each exporter of the reasons for a denial of an export license request.

REPORT⁵⁶

SEC. 10. (a) The head of any department or agency, or other official exercising any functions under this Act, shall make a semiannual report,⁵⁷ to the President and to the Congress of his operations hereunder.

⁵⁵ Sec. 203(b) of the Export Administration Amendments of 1977 (91 Stat. 247) struck out the word "The" and inserted the words "Except as provided in section 6(c) (2), the".

⁵⁶ Sec. 116(b) (1) of the Export Administration Amendments of 1977 (91 Stat. 242) struck out the word "QUARTERLY" in the section heading.

⁵⁷ Section 2(1) of Public Law 93-608 (88 Stat. 1967 at 1971) struck out the words "quarterly report, within 45 days after each quarter" and substituted "semiannual report."

(b)⁵⁸ (1) The⁵⁹ report required for the first quarter of 1975 and every⁶⁰ report thereafter shall include summaries of the information contained in the reports required by section 4(c)(2) of this Act, together with an analysis by the Secretary of Commerce of (A) the impact on the economy and world trade of shortages or increased prices for articles, materials, or supplies subject to monitoring under this Act, (B) the worldwide supply of such articles, materials, and supplies, and (C) actions taken by other nations in response to such shortages or increased prices.

(2) Each such⁵⁹ report shall also contain an analysis by the Secretary of Commerce of (A) the impact on the economy and world trade of shortages or increased prices for commodities subject to the reporting requirements of section 812 of the Agricultural Act of 1970, (B) the worldwide supply of such commodities, and (C) actions being taken by other nations in response to such shortages or increased prices. The Secretary of Agriculture shall fully cooperate with the Secretary of Commerce in providing all information required by the Secretary of Commerce in making such analysis.

(c)⁶¹ Each semiannual report shall include an accounting of—

(1) any organizational and procedural changes instituted, any reviews undertaken, and any means used to keep the business sector of the Nation informed, pursuant to section 4(a) of this Act;

(2) any changes in the exercise of the authorities of section 4(b) of this Act;

(3) any delegations of authority under section 4(e) of this Act;

(4) the disposition of export license applications pursuant to section 4 (g) and (h) of this Act;

(5) consultations undertaken with technical advisory committees pursuant to section 5(c) of this Act;

(6) violations of the provisions of this Act and penalties imposed pursuant to section 6 of this Act; and

(7) a description of actions taken by the President and the Secretary of Commerce to effect the policies set forth in section 3(5) of this Act.

DEFINITIONS

SEC. 11.⁶² As used in this Act—

(1) the term "person" includes the singular and the plural and any individual, partnership, corporation, or other form of association, including any government or agency thereof; and

(2) the term "United States person" means any United States resident or national (other than an individual resident outside

⁵⁸ Subsection (b) was added by Sec. 3(b) of Public Law 93-500 (88 Stat. 1552).

⁵⁹ Sec. 116(b)(2)(A) of the Export Administration Amendments of 1977 (91 Stat. 242) struck out the word "quarterly" which formerly appeared at this point.

⁶⁰ Sec. 116(b)(2)(B) of the Export Administration Amendments of 1977 (91 Stat. 242) struck out the word "second" which formerly appeared at this point.

⁶¹ Subsection (c) was added by Sec. 116(a) of the Export Administration Amendments of 1977 (91 Stat. 241).

⁶² Sec. 204 of the Export Administration Amendments of 1977 (91 Stat. 247) amended and restated Sec. 11. The former text read as follows:

"Sec. 11. The term 'person' as used in this Act includes the singular and the plural and any individual, partnership, corporation, or other form of association, including any government or agency thereof."

the United States and employed by other than a United States person), any domestic concern (including any permanent domestic establishment of any foreign concern) and any foreign subsidiary or affiliate (including any permanent foreign establishment) of any domestic concern which is controlled in fact by such domestic concern, as determined under regulations of the President.

EFFECT ON OTHER ACTS

SEC. 12. (a) The Act of February 15, 1936 (49 Stat. 1140), relating to the licensing of exports of tinplate scrap, is hereby superseded; but nothing contained in this Act shall be construed to modify, repeal, supersede, or otherwise affect the provisions of any other laws authorizing control over exports of any commodity.

(b) The authority granted to the President under this Act shall be exercised in such manner as to achieve effective coordination with the authority exercised under section 414 of the Mutual Security Act of 1954 (22 U.S.C. 1934).

AUTHORIZATION OF APPROPRIATIONS

SEC. 13.⁶³ (a) Notwithstanding any other provision of law, no appropriation shall be made under any law to the Department of Commerce for expenses to carry out the purposes of this Act for any fiscal year commencing on or after October 1, 1977, unless previously and specifically authorized by legislation.

(b) There is hereby authorized to be appropriated to the Department of Commerce \$14,033,000 (and such additional amounts as may be necessary for increases in salary, pay, retirement, other employee benefits authorized by law, and other nondiscretionary costs) for fiscal years 1978 and 1979 to carry out the purposes of this Act.

EFFECTIVE DATE

SEC. 14.⁶³ (a) This Act takes effect upon the expiration of the Export Control Act of 1949.⁶⁴

(b) All outstanding delegations, rules, regulations, orders, licenses, or other forms of administrative action under the Export Control Act of 1949 or section 6 of the Act of July 2, 1940 (54 Stat. 714), shall, until amended or revoked, remain in full force and effect, the same as if promulgated under this Act.

TERMINATION DATE

SEC. 15.⁶³ The authority granted by this Act terminates on September 30, 1979⁶⁵ or upon any prior date which the Congress by concurrent resolution or the President by proclamation may designate.

⁶³ Sec. 13 was added by Sec. 102 of the Export Administration Amendments of 1977 (91 Stat. 235). Sec. 102 also redesignated Sections 13 and 14 as 14 and 15, respectively.

⁶⁴ Sec. 108 of the Equal Export Opportunity Act provided that it was to take effect July 31, 1972.

⁶⁵ The original expiration date of June 30, 1974 was changed to July 30, 1974 by Public Law 93-327 (88 Stat. 287), approved June 30, 1974; to September 30, 1974 by Public Law 93-372 (88 Stat. 444), approved August 14, 1974; to September 30, 1976 by Sec. 13 of Public Law 93-500 (88 Stat. 1552 at 1557); and to September 30, 1979 by Sec. 101 of Public Law 95-52 (91 Stat. 235).

NOTE.—Sec. 14 of the Export Administration Amendments of 1974, Public Law 93-500 (88 Stat. 1552), made the following provision entitled "Presidential Review":

"The President is directed to review all laws, regulations issued thereunder by the Atomic Energy Commission, the Department of Commerce, and other Government agencies, governing the export and re-export of materials, supplies, articles, technical data or other information relating to the design, fabrication, development, supply, repair or replacement of any nuclear facility or any part thereof, and to report within six months to the Congress on the adequacy of such regulations to prevent the proliferation of nuclear capability for nonpeaceful purposes. The President is also directed to review domestic and international nuclear safeguards and to report within six months to the Congress on the adequacy of such safeguards to prevent the proliferation, diversion or theft of all such nuclear materials and on efforts by the United States and other countries to strengthen international nuclear safeguards in anticipation of the Review Conference scheduled to be held in February 1975 pursuant to Article VIII, section 3 of the Treaty on the Non-Proliferation of Nuclear Weapons."

b. Export Administration Amendments of 1977

Partial text of Public Law 95-52 [H.R. 5840], 91 Stat. 235, approved
June 22, 1977

NOTE.—Except for the provisions noted below, the Export Administration Amendments of 1977 consists of amendments to the Export Administration Act of 1969.

AN ACT To amend the Export Administration Act of 1969 in order to extend authorities of that Act and improve the administration of export controls under that Act, and to strengthen the antiboycott provisions of that Act.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the “Export Administration Amendments of 1977”.

TITLE I—EXPORT ADMINISTRATION IMPROVEMENTS AND EXTENSION

* * * * *

SPECIAL REPORT ON MULTILATERAL EXPORT CONTROLS

SEC. 117.¹ Not later than 12 months after the enactment of this section, the President shall submit to the Congress a special report on multilateral export controls in which the United States participates pursuant to the Export Administration Act of 1969 and pursuant to the Mutual Defense Assistance Control Act of 1951. The purpose of such special report shall be to assess the effectiveness of such multilateral export controls and to formulate specific proposals for increasing the effectiveness of such controls. That special report shall include—

(1) the current list of commodities controlled for export by agreement of the group known as the coordinating Committee of the Consultative Group (hereafter in this section referred to as the “Committee”) and an analysis of the process of reviewing such list and of the changes which result from such review;

(2) data on and analysis of requests for exceptions to such list;

(3) a description and an analysis of the process by which decisions are made by the Committee on whether or not to grant such requests;

¹ 50 U.S.C. App. 2409 note.

(4) an analysis of the uniformity of interpretation and enforcement by the participating countries of the export controls agreed to by the Committee (including controls over the re-export of such commodities from countries not participating in the Committee), and information on each case where such participating countries have acted contrary to the United States interpretation of the policy of the Committee, including United States representations to such countries and the response of such countries;

(5) an analysis of the problem of exports of advanced technology by countries not participating in the Committee, including such exports by subsidiaries or affiliates of United States businesses in such countries;

(6) an analysis of the effectiveness of any procedures employed, in cases in which an exception for a listed commodity is granted by the Committee, to determine whether there has been compliance with any conditions on the use of the excepted commodity which were a basis for the exception; and

(7) detailed recommendations for improving, through formalization or other means, the effectiveness of multilateral export controls, including specific recommendations for the development of more precise criteria and procedures for collective export decisions and for the development of more detailed and formal enforcement mechanisms to assure more uniform interpretation of and compliance with such criteria, procedures, and decisions by all countries participating in such multilateral export controls.

REVIEW OF UNILATERAL AND MULTILATERAL EXPORT CONTROL LISTS

SEC. 118.² The Secretary of Commerce, in cooperation with appropriate United States Government departments and agencies and the appropriate technical advisory committees established pursuant to the Export Administration Act of 1969, shall undertake an investigation to determine whether United States unilateral controls or multilateral controls in which the United States participates should be removed, modified, or added with respect to particular articles, materials, and supplies, including technical data and other information, in order to protect the national security of the United States. Such investigation shall take into account such factors as the availability of such articles, materials, and supplies from other nations and the degree to which the availability of the same from the United States or from any country with which the United States participates in multilateral controls would make a significant contribution to the military potential of any country threatening or potentially threatening the national security of the United States. The results of such investigation shall be reported to the Congress not later than December 31, 1978.

TECHNOLOGY EXPORT STUDY

SEC. 119.² (a) The President, acting through the Secretary of Commerce, the Secretary of Labor, and the International Trade Commission, shall conduct a study of the domestic economic impact of exports

² 50 U.S.C. App. 2403 note.

from the United States of industrial technology whose export requires a license under the Export Administration Act of 1969. Such study shall include an evaluation of current exporting patterns on the international competitive position of the United States in advanced industrial technology fields and an evaluation of the present and future effect of these exports on domestic employment.

(b) The results of the study conducted pursuant to subsection (a) will be reported to the Congress within one year after the date of enactment of this Act.

REPORT ON TECHNICAL DATA TRANSFERS

SEC. 120.² The Secretary of Commerce shall conduct a study of the transfer of technical data and other information to any country to which exports are restricted for national security purposes and the problem of the export, by publications or any other means of public dissemination, of technical data or other information from the United States, the export of which might prove detrimental to the national security or foreign policy of the United States. Not later than 12 months after the enactment of this section, the Secretary shall report to the Congress his assessment of the impact of the export of such technical data or other information by such means on the national security and foreign policy of the United States and his recommendations for monitoring such reports without impairing freedom of speech, freedom of press, or the freedom of scientific exchange. Such report may be included in the semiannual report required by section 10 of the Export Administration Act of 1969.

TITLE II—FOREIGN BOYCOTTS

* * * * *

PREEMPTION

SEC. 205.³ The amendments made by this title and the rules and regulations issued pursuant thereto shall preempt any law, rule, or regulation of any of the several States or the District of Columbia, and any of the territories or possessions of the United States, or of any government subdivision thereof, which law, rule, or regulation pertains to participation in, compliance with, implementation of, or the furnishing of information regarding restrictive trade practices or boycotts fostered or imposed by foreign countries against other countries.

³ 50 U.S.C. App. 2403-1a note.

c. Executive Order 12002, July 7, 1977, 42 F.R. 35623

ADMINISTRATION OF THE EXPORT ADMINISTRATION ACT OF 1969, AS AMENDED

By virtue of the authority vested in me by the Constitution and statutes of the United States of America, including the Export Administration Act of 1969, as amended (50 U.S.C. App. 2401, et seq.), and as President of the United States of America, it is hereby ordered as follows:

Section 1. Except as provided in Section 2, the power, authority, and discretion conferred upon the President by the provisions of the Export Administration Act of 1969, as amended (50 U.S.C. App. 2401, et seq.), hereinafter referred to as the Act, are delegated to the Secretary of Commerce, with the power of successive redelegation.

Sec. 2. (a) The power, authority and discretion conferred upon the President in Sections 4(h) and 4(l) of the Act are retained by the President.

(b) The power, authority and discretion conferred upon the President in Section 3(8) of the Act, which directs that every reasonable effort be made to secure the removal or reduction of assistance by foreign countries to international terrorists through cooperation and agreement, are delegated to the Secretary of State, with the power of successive redelegation.

Sec. 3. The Export Administration Review Board, hereinafter referred to as the Board, which was established by Executive Order No. 11533 of June 4, 1970, as amended, is hereby continued. The Board shall continue to have as members the Secretary of Commerce, who shall be Chairman of the Board, the Secretary of State, the Secretary of Defense, and the Chairman of the East-West Foreign Trade Board (Section 7 of Executive Order No. 11846, as amended). No alternative Board members shall be designated, but the acting head of any department may serve in lieu of the head of the concerned department. In the case of the East-West Foreign Trade Board, the Deputy Chairman or the Executive Secretary may serve in lieu of the Chairman. The Board may invite the heads of other United States Government departments or agencies, other than the agencies represented by Board members, to participate in the activities of the Board when matters of interest to such departments or agencies are under consideration.

Sec. 4. The Secretary of Commerce may from time to time refer to the Board such particular export license matters, involving questions of national security or other major policy issues, as the Secretary shall select. The Secretary of Commerce shall also refer to the Board any other such export license matter, upon the request of any other member of the Board or of the head of any other United States Government department or agency having any interest in such matter. The Board shall consider the matters so referred to it, giving due consideration to the foreign policy of the United States, the national security, and the

domestic economy, and shall make recommendation thereon to the Secretary of Commerce.

Sec. 5. The President may at any time (a) prescribe rules and regulations applicable to the power, authority, and discretion referred to in this Order, and (b) communicate to the Secretary of Commerce such specific directives applicable thereto as the President shall determine. The Secretary of Commerce shall from time to time report to the President upon the administration of the Act and, as the Secretary deems necessary, may refer to the President recommendations made by the Board under Section 4 of this Order. Neither the provisions of this section nor those of Section 4 shall be construed as limiting the provisions of Section 1 of this Order.

Sec. 6. All delegations, rules, regulations, orders, licenses, and other forms of administrative action made, issued, or otherwise taken under, or continued in existence by, the Executive orders revoked in Section 7 of this Order, and not revoked administratively or legislatively, shall remain in full force and effect under this Order until amended, modified, or terminated by proper authority. The revocations in Section 7 of this Order shall not affect any violation of any rules, regulations, orders, licenses or other forms of administrative action under those Orders during the period those Orders were in effect.

Sec. 7. Executive Order No. 11533 of June 4, 1970, Executive Order No. 11683 of August 29, 1972, Executive Order No. 11798 of August 14, 1974, Executive Order No. 11818 of November 5, 1974, Executive Order No. 11907 of March 1, 1976, and Executive Order No. 11940 of September 30, 1976 are hereby revoked.

d. Executive Order 11753, December 20, 1973, 38 F.R. 34983

ESTABLISHING THE PRESIDENT'S EXPORT COUNCIL AND FOR OTHER PURPOSES

By virtue of the authority vested in me as President of the United States of America, it is hereby ordered as follows:

SECTION 1. *Establishment of the President's Export Council.* (a) There is hereby established within the Department of Commerce the President's Export Council, hereinafter referred to as the "Export Council," which shall be composed of a Chairman, a Vice Chairman, and twenty other members representative of business and industry of which eight members shall be selected without regard to geographic considerations and twelve members shall be selected so as to provide appropriate regional representation. The President shall appoint the Chairman, the Vice Chairman, and all other members of the Export Council.

(b) The Export Council shall serve as a national advisory body to the President on export expansion activities.

(c) The Secretary of Commerce (hereinafter referred to as the "Secretary") is directed to insure that the recommendations of the Export Council receive appropriate Governmental consideration.

(d) The Secretary, with the concurrence of the Chairman, shall appoint an Executive Secretary for the Export Council.

SEC. 2. *Functions of the Export Council.* The Export Council shall, through the Secretary, advise the President, the Council on International Economic Policy (CIEP), and the President's Interagency Committee for Export Expansion (PICEE) on matters relating to export trade. In particular, the Export Council may—

(1) Identify and examine problems regarding the effects of industrial practices on export trade and the need for industry to improve its export efforts, and recommend solutions to these problems.

(2) Survey and evaluate export expansion activities which reflect the ideas of the business community.

(3) Provide liaison among members of the business and industrial community on export expansion matters.

(4) Encourage the business and industrial community to enter new foreign markets and to expand existing export programs.

(5) Advise on plans and actions of the Federal Government involving export expansion policies affecting business and industry.

(6) Provide a forum for business and Government on current and emerging problems and issues in the field of export expansion.

SEC. 3. *Subordinate Committees.* The Export Council may establish, with the concurrence of the Secretary, an executive committee and such other subordinate committees as it considers necessary in the perform-

ance of its functions. Subordinate committees shall be headed by a chairman selected from the membership by the Chairman of the Export Council with the concurrence of the Secretary. Members of the subordinate committees shall be selected by the Secretary from representatives of business and industry.

SEC. 4. *Administrative Assistance.* As permitted by law and as necessary to carry out the purposes of this order, the Secretary may provide or arrange for administrative and staff services, support, and facilities for the Export Council, including its executive committee and subordinate committees.

SEC. 5. *Expenses.* Members of the Export Council, including its executive committee and subordinate committees, shall receive no compensation from the United States by reason of their services under this order, but may, to the extent permitted by law, be allowed travel expenses, including per diem in lieu of subsistence, as authorized by law (5 U.S.C. 5703) for persons in the Government service employed intermittently.

SEC. 6. *Federal Advisory Committee Act.* The Department of Commerce shall perform such functions with respect to the administration of this order as may be required under the provisions of the Federal Advisory Committee Act (Public Law 92-463; 86 Stat. 770).

SEC. 7. *Construction.* Nothing in this order shall be construed as subjecting any Federal agency, or any function vested by law in, or assigned pursuant to law to, any Federal agency to the authority of any other Federal agency, the Export Council, or its Executive Committee and any of its subordinate committees, or as abrogating or restricting any such function in any manner.

SEC. 8. *Revocation.* The Interagency Committee on Export Expansion is hereby abolished and Executive Order No. 11132 of December 12, 1963, as amended by Executive Order No. 11148 of March 23, 1964, is hereby revoked.

5. Trading With the Enemy

a. Trading With the Enemy Act of 1917, as amended

Partial text of Public Law 65-91 [H.R. 4960], 40 Stat. 415; 12 U.S.C. 95.a, approved October 6, 1917, as amended by Public Law 65-217 [H.R. 12923], 40 Stat. 965, approved September 24, 1918; Public Law 73-1 [H.R. 1491], 48 Stat. 1, approved March 9, 1933; Public Resolution 76-69 [S.J. Res. 252], 54 Stat. 179, approved May 7, 1960; Public Law 77-354 [H.R. 6233], 55 Stat. 838, approved December 18, 1941; Presidential Proclamation 2695, effective July 4, 1946, 60 Stat. 1352; and by Public Law 95-223 [H.R. 7738], 91 Stat. 1625, approved December 28, 1977.

* * * * *

SECTION 5(b)¹ (1). During the time of war,² the President may through any agency that he may designate, and under such rules and regulations as he may prescribe, by means of instructions, licenses, or otherwise—

(A) investigate, regulate, or prohibit, any transactions in foreign exchange, transfers of credit or payments between, by, through, or to any banking institution, and the importing, exporting, hoarding, melting, or earmarking of gold or silver coin or bullion, currency or securities, and

(B) investigate, regulate, direct and compel, nullify, void, prevent or prohibit, any acquisition, holding, withholding, use, transfer withdrawal, transportation, importation or exportation of, or dealing in, or exercising any right, power, or privilege with respect to, or transactions involving, any property in which any foreign country or a national thereof has any interest,

by any person, or with respect to any property, subject to the jurisdiction of the United States; and any property or interest of any foreign country or national thereof shall vest, when, as, and upon the terms, directed by the President in such agency or person as may be designated from time to time by the President, and upon such terms and conditions as the President may prescribe such interest or property shall be held, used, administered, liquidated, sold, or otherwise dealt with in the interest of and for the benefit of the United States and such designated agency or person may perform any and all acts

¹ As amended and restated by sec. 301 of Public Law 77-354 (55 Stat. 839).

² The words "or during any other period of national emergency declared by the President", which previously appeared at this point, were struck out by Sec. 101(a) of Public Law 95-223 (91 Stat. 1625). Sec. 101 (b) and (c) of the same Act further stipulated:

"(b) Notwithstanding the amendment made by subsection (a), the authorities conferred upon the President by section 5(b) of the Trading With the Enemy Act, which were being exercised with respect to a country on July 1, 1977, as a result of a national emergency declared by the President before such date, may continue to be exercised with respect to such country, except that, unless extended, the exercise of such authorities shall terminate (subject to the savings provisions of the second sentence of section 101(a) of the National Emergencies Act) at the end of the two-year period beginning on the date of enactment of the National Emergencies Act. The President may extend the exercise of such authorities for one-year periods upon a determination of each such extension that the exercise of such authorities with respect to such country for another year is in the national interest of the United States.

"(c) The termination and extension provisions of subsection (b) of this section supersede the provisions of section 101(a) and of title II of the National Emergencies Act to the extent that the provisions of subsection (b) of this section are inconsistent with those provisions."

incident to the accomplishment or furtherance of these purposes; and the President shall, in the manner hereinabove provided, require any person to keep a full record of, and to furnish under oath, in the form of reports or otherwise, complete information relative to any act or transaction referred to in this subdivision either before, during, or after the completion thereof, or relative to any interest in foreign property, or relative to any property in which any foreign country or any national thereof has or has had any interest, or as may be otherwise necessary to enforce the provisions of this subdivision, and in any case in which a report could be required, the President may, in the manner hereinabove provided, require the production, or if necessary to the national security or defense, the seizure, of any books of account, records, contracts, letters, memoranda, or other papers, in the custody or control of such person.³

(2) Any payment, conveyance, transfer, assignment, or delivery of property or interest therein, made to or for the account of the United States, or as otherwise directed, pursuant to this subdivision or any rule, regulation, instruction, or direction issued hereunder shall to the extent thereof be a full acquittance and discharge for all purposes of the obligation of the person making the same; and no person shall be held liable in any court for or in respect to anything done or omitted in good faith in connection with the administration of, or in pursuance of and in reliance on, this subdivision, or any rule, regulation, instruction, or direction issued hereunder.

(3) As used in this subdivision the term "United States" means the United States and any place subject to the jurisdiction thereof:⁴ *Provided, however,* That the foregoing shall not be construed as a limitation upon the power of the President, which is hereby conferred, to prescribe from time to time, definitions, not inconsistent with the purposes of this subdivision, for any or all of the terms used in this subdivision.⁵ As used in this subdivision the term "person" means an individual, partnership, association, or corporation.

³ The words "; and the President may, in the manner hereinabove provided, take other or further measures not inconsistent herewith for the enforcement of this subdivision", which previously appeared at this point, were struck out by Sec. 102(2) of Public Law 95-223 (91 Stat. 1625).

⁴ Words "including the Philippine Islands, and the several courts of first instance of the Commonwealth of the Philippine Islands shall have jurisdiction in all cases, civil or criminal, arising under this subdivision in the Philippine Islands and concurrent jurisdiction with the district courts of the United States of all cases, civil or criminal, arising upon the high seas" immediately preceding the proviso in subsection (b)(3) of this section, have been omitted on the authority of 1946 Proclamation No. 2695; which is set out as a note under section 1394 of Title 22, Foreign Relations and Intercourse, and in which the President proclaimed the independence of the Philippines.

⁵ Sec. 103(b) of Public Law 95-223 (91 Stat. 1626) struck out the following sentence which previously appeared at this point:

"Whoever willfully violates any of the provisions of this subdivision or of any license, order, rule or regulation issued thereunder, shall, upon conviction, be fined not more than \$10,000, or, if a natural person, may be imprisoned for not more than ten years, or both; and any officer, director, or agent of any corporation who knowingly participates in such violation may be punished by a like fine, imprisonment, or both."

b. Trading With the Enemy Act Reform Legislation

Partial text of Public Law 95-223 [H.R. 7738], 91 Stat. 1625, approved
December 28, 1977

NOTE.—Except for the provisions noted below, this Act consists of amendments to the Trading With the Enemy Act of 1917 and the Export Administration Act of 1969.

AN ACT With respect to the powers of the President in time of war or national emergency.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I—AMENDMENTS TO THE TRADING WITH THE ENEMY ACT

REMOVAL OF NATIONAL EMERGENCY POWERS UNDER THE TRADING WITH THE ENEMY ACT

Sec. 101. (a) * * *

(b) Notwithstanding the amendment made by subsection (a), the authorities conferred upon the President by section 5(b) of the Trading With the Enemy Act, which were being exercised with respect to a country on July 1, 1977, as a result of a national emergency declared by the President before such date, may continue to be exercised with respect to such country, except that, unless extended, the exercise of such authorities shall terminate (subject to the savings provisions of the second sentence of section 101(a) of the National Emergencies Act) at the end of the two-year period beginning on the date of enactment of the National Emergencies Act. The President may extend the exercise of such authorities for one-year periods upon a determination of each such extension that the exercise of such authorities with respect to such country for another year is in the national interest of the United States.

(c) The termination and extension provisions of subsection (b) of this section supersede the provisions of section 101(a) and of title II of the National Emergencies Act to the extent that the provisions of subsection (b) of this section are inconsistent with those provisions.

(d) Paragraph (1) of section 502(a) of the National Emergencies Act is repealed.

* * * * *

Sec. 103. (a) Section 16 of the Trading With the Enemy Act is amended by striking out "\$10,000" and inserting in lieu thereof "\$50,000".

* * * * *

TITLE II—INTERNATIONAL EMERGENCY ECONOMIC POWERS

SHORT TITLE

Sec. 201. This title may be cited as the "International Emergency Economic Powers Act".

SITUATIONS IN WHICH AUTHORITIES MAY BE EXERCISED

Sec. 202. (a) Any authority granted to the President by section 203 may be exercised to deal with any unusual and extraordinary threat, which has its source in whole or substantial part outside the United States, to the national security, foreign policy, or economy of the United States, if the President declares a national emergency with respect to such threat.

(b) The authorities granted to the President by section 203 may only be exercised to deal with an unusual and extraordinary threat with respect to which a national emergency has been declared for purposes of this title and may not be exercised for any other purpose. Any exercise of such authorities to deal with any new threat shall be based on a new declaration of national emergency which must be with respect to such threat.

GRANT OF AUTHORITIES

Sec. 203. (a) (1) At the times and to the extent specified in section 202, the President may, under such regulations as he may prescribe, by means of instructions, licenses, or otherwise—

(A) investigate, regulate, or prohibit—

(i) any transactions in foreign exchange,

(ii) transfers of credit or payments between, by, through, or to any banking institution, to the extent that such transfers or payments involve any interest of any foreign country or a national thereof,

(iii) the importing or exporting of currency or securities; and

(B) investigate, regulate, direct and compel, nullify, void, prevent or prohibit, any acquisition, holding, withholding, use, transfer, withdrawal, transportation, importation or exportation of, or dealing in, or exercising any right, power, or privilege with respect to, or transactions involving, any property in which any foreign country or a national thereof has any interest;

by any person, or with respect to any property, subject to the jurisdiction of the United States.

(2) In exercising the authorities granted by paragraph (1), the President may require any person to keep a full record of, and to furnish under oath, in the form of reports or otherwise, complete information relative to any act or transaction referred to in paragraph (1) either before, during, or after the completion thereof, or relative to any interest in foreign property, or relative to any property in which any foreign country or any national thereof has or has had any interest, or as may be otherwise necessary to enforce the provisions of such paragraph. In any case in which a report by a person could be required

under this paragraph, the President may require the production of any books of account, records, contracts, letters, memorandums, or other papers, in the custody or control of such person.

(3) Compliance with any regulation, instruction, or direction issued under this title shall to the extent thereof be a full acquittance and discharge for all purposes of the obligation of the person making the same. No person shall be held liable in any court for or with respect to anything done or omitted in good faith in connection with the administration of, or pursuant to and in reliance on, this title, or any regulation, instruction, or direction issued under this title.

(b) The authority granted to the President by this section does not include the authority to regulate or prohibit, directly or indirectly—

(1) any postal, telegraphic, telephonic, or other personal communication, which does not involve a transfer of anything of value; or

(2) donations, by persons subject to the jurisdiction of the United States, of articles, such as food, clothing, and medicine, intended to be used to relieve human suffering, except to the extent that the President determines that such donations (A) would seriously impair his ability to deal with any national emergency declared under section 202 of this title, (B) are in response to coercion against the proposed recipient or donor, or (C) would endanger Armed Forces of the United States which are engaged in hostilities or are in a situation where imminent involvement in hostilities is clearly indicated by the circumstances.

CONSULTATION AND REPORTS

Sec. 204. (a) The President, in every possible instance, shall consult with the Congress before exercising any of the authorities granted by this title and shall consult regularly with the Congress so long as such authorities are exercised.

(b) Whenever the President exercises any of the authorities granted by this title, he shall immediately transmit to the Congress a report specifying—

(1) the circumstances which necessitate such exercise of authority;

(2) why the President believes those circumstances constitute an unusual and extraordinary threat, which has its source in whole or substantial part outside the United States, to the national security, foreign policy, or economy of the United States;

(3) the authorities to be exercised and the actions to be taken in the exercise of those authorities to deal with those circumstances;

(4) why the President believes such actions are necessary to deal with those circumstances; and

(5) any foreign countries with respect to which such actions are to be taken and why such actions are to be taken with respect to those countries.

(c) At least once during each succeeding six-month period after transmitting a report pursuant to subsection (b) with respect to an exercise of authorities under this title, the President shall report to the Congress with respect to the actions taken, since the last such

report, in the exercise of such authorities, and with respect to any changes which have occurred concerning any information previously furnished pursuant to paragraphs (1) through (5) of subsection (b).

(d) The requirements of this section are supplemental to those contained in title IV of the National Emergencies Act.

AUTHORITY TO ISSUE REGULATIONS

Sec. 205. The President may issue such regulations, including regulations prescribing definitions, as may be necessary for the exercise of the authorities granted by this title.

PENALTIES

Sec. 206. (a) A civil penalty of not to exceed \$10,000 may be imposed on any person who violates any license, order, or regulation issued under this title.

(b) Whoever willfully violates any license, order, or regulation issued under this title shall, upon conviction, be fined not more than \$50,000, or, if a natural person, may be imprisoned for not more than ten years, or both; and any officer, director, or agent of any corporation who knowingly participates in such violation may be punished by a like fine, imprisonment, or both.

SAVINGS PROVISION

Sec. 207. (a) (1) Except as provided in subsection (b), notwithstanding the termination pursuant to the National Emergencies Act of a national emergency declared for purposes of this title, any authorities granted by this title, which are exercised on the date of such termination on the basis of such national emergency to prohibit transactions involving property in which a foreign country or national thereof has any interest, may continue to be so exercised to prohibit transactions involving that property if the President determines that the continuation of such prohibition with respect to that property is necessary on account of claims involving such country or its nationals.

(2) Notwithstanding the termination of the authorities described in section 101(b) of this Act, any such authorities, which are exercised with respect to a country on the date of such termination to prohibit transactions involving any property in which such country or any national thereof has any interest, may continue to be exercised to prohibit transactions involving that property if the President determines that the continuation of such prohibition with respect to that property is necessary on account of claims involving such country or its nationals.

(b) The authorities described in subsection (a) (1) may not continue to be exercised under this section if the national emergency is terminated by the Congress by concurrent resolution pursuant to section 202 of the National Emergencies Act and if the Congress specifies in such concurrent resolution that such authorities may not continue to be exercised under this section.

(c) (1) The provisions of this section are supplemental to the savings provisions of paragraphs (1), (2), and (3) of section 101(a) and

of paragraphs (A), (B), and (C) of section 202(a) of the National Emergencies Act.

(2) The provisions of this section supersede the termination provisions of section 101(a) and of title II of the National Emergencies Act to the extent that the provisions of this section are inconsistent with these provisions.

(d) If the President uses the authority of this section to continue prohibitions on transactions involving foreign property interests, he shall report to the Congress every six months on the use of such authority.

Sec. 208. If any provision of this Act is held invalid, the remainder of the Act shall not be affected thereby.

TITLE III—AMENDMENTS TO THE EXPORT ADMINISTRATION ACT OF 1969

* * * * *

6. Johnson Act—Financial Transactions With Foreign Governments^{1 2}

Partial text of Public Law 80-772 [H.R. 3190], 62 Stat. 744; 18 U.S.C. 955, approved June 25, 1948

* * * * *

Whoever, within the United States, purchases or sells the bonds, securities, or other obligations of any foreign government or political subdivision thereof or any organization or association acting for or on behalf of a foreign government or political subdivision thereof, issued after April 13, 1934, or makes any loan to such foreign government, political subdivision, organization or association, except a renewal or adjustment of existing indebtedness, while such government, political subdivision, organization or association, is in default in the payment of its obligations, or any part thereof, to the United States, shall be fined not more than \$10,000 or imprisoned for not more than five years, or both.

This section is applicable to individuals, partnerships, corporations, or associations other than public corporations created by or pursuant to special authorizations of Congress, or corporations in which the United States has or exercises a controlling interest through stock ownership or otherwise. While any foreign government is a member both of the International Monetary Fund and of the International Bank for Reconstruction and Development, this section shall not apply to the sale or purchase of bonds, securities, or other obligations of such government or any political subdivision thereof or of any organization or association acting for or on behalf of such government or political subdivision, or to making of any loan to such government, political subdivision, organization, or association.

* * * * *

¹ For text of Foreign Agents Registration Act of 1938, as amended (Public Law 75-583), see page 581 of text.

² For text of Logan Act—private correspondence with foreign governments (Public Law 80-722), see page 597.

7. Foreign Investment in the United States

a. Foreign Investment Study Act of 1974

Public Law 93-479 [S. 2840], 88 Stat. 1450, approved October 26, 1974

AN ACT To authorize the Secretary of Commerce and the Secretary of the Treasury to conduct a study of foreign direct and portfolio investment in the United States, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Foreign Investment Study Act of 1974".

SEC. 2. The Secretary of the Treasury and the Secretary of Commerce are hereby authorized and directed to conduct a comprehensive, overall study of foreign direct and portfolio investments in the United States.

SEC. 3. The Departments of Commerce and Treasury, in consultation with appropriate agencies, shall determine the definitions and limitations of direct and portfolio investments for the purposes of the study authorized in section 2 of this Act.

SEC. 4. In carrying out the study described in section 2 of this Act, the Secretary of Commerce and the Secretary of the Treasury shall, respectively and jointly as may be appropriate—

(1) identify and collect such information as may be required to carry out the study authorized in section 2 of this Act;

(2) consult with and secure information from (and where appropriate the views of) representatives of industry, the financial community, labor, agriculture, science and technology, academic institutions, public interest organizations, and such other groups as the Secretaries deem suitable; and

(3) consult and cooperate with other government agencies, Federal, State, and local, and, to the extent appropriate, with foreign governments and international organizations.

SEC. 5. The Secretary of Commerce shall carry out that part of the study authorized in section 2 of this Act relating to foreign direct investment, and shall, among other things, to the extent he determines feasible, specifically—

(1) investigate and review the nature, scope, magnitude, and rate of foreign direct investment activities in the United States;

(2) survey the reasons foreign firms are undertaking direct investment in the United States;

(3) identify the processes and mechanisms through which foreign direct investment flows into the United States, the financing methods used by foreign direct investors, and the effects of such financing on American financial markets;

(4) analyze the scope and significance of foreign direct investment in acquisitions and takeovers of existing American enterprises, the significance of such investments in the form of new

facilities or joint ventures with American firms, and the effects thereof on domestic business competition;

(5) analyze the concentration and distribution of foreign direct investment in specific geographic areas and economic sectors;

(6) analyze the effects of foreign direct investment on United States national security, energy, natural resources, agriculture, environment, real property holdings, balance of payments, balance of trade, the United States international economic position, and various significant American product markets;

(7) analyze the effect of foreign direct investment in terms of employment opportunities and practices and the activities and influence of foreign and American management executives employed by foreign firms;

(8) analyze the effect of Federal, regional, State, and local laws, rules, regulations, controls, and policies on foreign direct investment activities in the United States;

(9) compare the purpose and effect of United States, State, and local laws, rules, regulations, programs, and policies on foreign direct investment in the United States with laws, rules, regulations, programs, and policies of selected nations and areas where such comparison may be informative;

(10) compare and contrast the foreign direct investment activities in the United States with the investment activities of American investors abroad and appraise the impact of such American activities abroad on the investment activities and policies of foreign firms in the United States;

(11) study the adequacy of information, disclosure, and reporting requirements and procedures:

(12) determine the effects of variations between accounting, financial reporting, and other business practices of American and foreign investors on foreign investment activities in the United States; and

(13) study and recommend means whereby information and statistics on foreign direct investment activities can be kept current.

SEC. 6. The Secretary of the Treasury shall carry out that part of the study authorized in section 2 of this Act relating to foreign portfolio investment, and shall, to the extent he determines feasible, specifically—

(1) investigate and review the nature, scope, and magnitude of foreign portfolio investment activities in the United States;

(2) survey the reasons for foreign portfolio investment in the United States;

(3) identify the processes and mechanisms through which foreign portfolio investment is made in the United States, the financing methods used, and the effects of foreign portfolio investment on American financial markets:

(4) analyze the effects of foreign portfolio investment on the United States balance of payments and the United States international investment position:

(5) study and analyze the concentration and distribution of foreign portfolio investment in specific United States economic sectors:

(6) study the effect of Federal securities laws, rules, regulations, and policies on foreign portfolio investment activities in the United States;

(7) compare the purpose and effect of United States, State, and local laws, rules, regulations, programs, and policies on foreign portfolio investment in the United States with laws, rules, regulations, programs, and policies of selected nations and areas where such comparison may be informative;

(8) compare the foreign portfolio investment activities in the United States with information available on the portfolio investment activities of American investors abroad;

(9) study adequacy of information, disclosures, and reporting requirements and procedures; and

(10) study and recommend means whereby information and statistics on foreign portfolio investment activities can be kept current.

POWERS

SEC. 7. (a) The Secretary of Commerce and the Secretary of the Treasury may each by regulation establish whatever rules each deems necessary to carry out each of his functions under this Act.

(b) Each such Secretary may require any person subject to the jurisdiction of the United States—

(1) to maintain a complete record of any information (including journals or other books of original entry, minute books, stock transfer records, lists of shareholders, or financial statements) which such Secretary determines is germane to his functions in the foreign direct investment and foreign portfolio investment studies to be conducted pursuant to this Act; and

(2) to furnish under oath any report containing whatever information such Secretary determines is necessary to carry out his functions in such studies. Whenever an order under clause (2) of this subsection requires a person to produce information which can be specifically identified as being part of the records of its customers, the Secretary shall, upon being provided the names and addresses of such customers, send a notice to such customers that information from their records will be disclosed pursuant to this Act; *Provided*, That this requirement shall not apply when such person is directly involved in the ownership or management of assets for the customer as nominee, agent, partner, fiduciary, trustee, or in a similar relationship.

The authority of each Secretary under this subsection shall expire on the date provided under section 10 of this Act for the Secretary of Commerce and the Secretary of the Treasury to submit a full and complete report to the Congress.

(c) In addition to the Secretary of Commerce and the Secretary of the Treasury, the only individuals who may have access to information furnished under subsection (b)(2) are those sworn employees, including consultants, of the Department of Commerce or Department of the Treasury designated by the Secretary of either such Department. Neither such Secretary nor any such employee may—

(1) use any information furnished under subsection (b)(2) except for analytical or statistical purposes within the United States Government; or

(f) publish, or make available to any other person in any manner, any such information in a manner that the information furnished under subsection (b)(2) by any person can be specifically identified, except for the purposes of a proceeding under section 8.

Such Secretaries may exchange any such information furnished under subsection (b)(2) in order to prevent any duplication or omission in the studies conducted by each such Secretary pursuant to this Act.

(d) Except for the requirement under subsection (b)(2), no agency of the United States or employee thereof may compel (1) the Secretary of Commerce or the Secretary of the Treasury, (2) any individual designated by either such Secretary under the first sentence of subsection (c), or (3) any person which maintained or furnished any report under subsection (b), to submit any such report or constituent part thereof to that agency or any other agency of the United States. Without the prior written consent of the person which maintained or furnished any report under subsection (b) and without the prior written consent of the customer, where the person maintained or furnished any such report which included information identifiable as being derived from the records of such customer, such report or any such constituent part may not be produced for any judicial or administrative proceeding, except for a proceeding under section 8(b) of this Act.

ENFORCEMENT

SEC. 8. (a) Whoever fails to furnish any information required pursuant to the authority of this Act, whether required to be furnished in the form of a report or otherwise, or to comply with any rule, regulation, order, or instruction promulgated pursuant to the authority of this Act may be assessed a civil penalty not exceeding \$10,000 in a proceeding brought under subsection (b) of this section.

(b) Whenever it appears to either the Secretary of the Treasury or the Secretary of Commerce that any person has failed to furnish any information required pursuant to the provisions of this Act, whether required to be furnished in the form of a report or otherwise, or has failed to comply with any rule, regulation, order, or instruction promulgated pursuant to the authority of this Act, such Secretary may in his discretion bring an action, in the proper district court of the United States or the proper United States court of any territory or other place subject to the jurisdiction of the United States, seeking a mandatory injunction commanding such person to comply with such rule, regulation, order, or instruction, and upon a proper showing by such Secretary of the relevance to the purposes of the Act of such rule, regulation, order, or instruction, a permanent or temporary injunction or restraining order shall be granted without bond, and such person, may also be subject to the civil penalty provided in subsection (a) of this section if the judge finds that such penalty is necessary to obtain compliance with such injunction or restraining order.

(c) Whoever willfully fails to submit any information required pursuant to this Act, whether required to be furnished in the form of a report or otherwise, or willfully violates any rule, regulation, order, or instruction promulgated pursuant to the authority of this Act shall, upon conviction, be fined not more than \$10,000 or, if a natural person,

may be imprisoned for not more than one year or both; and any officer, director, or agent of any corporation who knowingly participates in such violation may be punished by a like fine, imprisonment, or both.

SEC. 9. (a) The Secretary of Commerce and the Secretary of the Treasury may procure the temporary or intermittent services of experts and consultants in accordance with the provisions of section 3109 of title 5, United States Code. Persons so employed shall receive compensation at a rate to be fixed by the Secretaries concerned but not in excess of the maximum amount payable under such section. While away from his home or regular place of business and engaged in the performance of services for the Department of Commerce or the Department of the Treasury in conjunction with the provisions of this Act, any such person may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703(b) of title 5, United States Code, for persons in the Government service employed intermittently.

(b) The Secretary of Commerce and the Secretary of the Treasury are authorized, on a reimbursable basis when appropriate, to use the available services, equipment, personnel, and facilities of any agency or instrumentality of the Federal Government in conjunction with the study authorized in this Act.

SEC. 10. The Secretary of Commerce and the Secretary of the Treasury shall submit to the Congress an interim report twelve months after the date of enactment of this Act, and not later than one and one-half years after enactment of this Act, a full and complete report of the findings made under the study authorized by this Act, together with such recommendations as they consider appropriate.

SEC. 11. There is authorized to be appropriated a sum not to exceed \$3,000,000 to carry out the purposes of this Act. Any funds so appropriated shall remain available until expended.

b. Executive Order 11858, May 7, 1975, 40 F.R. 20263

By virtue of the authority vested in me by the Constitution and statutes of the United States of America, including the Act of February 14, 1903, as amended (15 U.S.C. 1501 et seq.), section 10 of the Gold Reserve Act of 1934, as amended (31 U.S.C. 822a), and section 301 of title 3 of the United States Code, and as President of the United States of America, it is hereby ordered as follows:

SECTION 1. (a) There is hereby established the Committee on Foreign Investment in the United States (hereinafter referred to as the Committee). The Committee shall be composed of a representative, whose status is not below that of an Assistant Secretary, designated by each of the following:

- (1) The Secretary of State.
- (2) The Secretary of the Treasury.
- (3) The Secretary of Defense.
- (4) The Secretary of Commerce.
- (5) The Assistant to the President for Economic Affairs.
- (6) The Executive Director of the Council on International Economic Policy.

The representative of the Secretary of the Treasury shall be the chairman of the Committee. The chairman, as he deems appropriate, may invite representatives of other departments and agencies to participate from time to time in activities of the committee.

(b) The Committee shall have primary continuing responsibility within the executive branch for monitoring the impact of foreign investment in the United States, both direct and portfolio, and for coordinating the implementation of U.S. policy on such investment. In fulfillment of this responsibility, the committee shall:

- (1) arrange for the preparation of analyses of trends and significant developments in foreign investments in the United States;
- (2) provide guidance on arrangements with foreign governments for advance consultations on prospective major foreign governmental investments in the United States;
- (3) review investments in the United States which, in the judgment of the committee, might have major implications for U.S. national interests; and
- (4) consider proposals for new legislation or regulations relating to foreign investment as may appear necessary.

(c) As the need arises, the Committee shall submit recommendations and analyses to the National Security Council and to the Economic Policy Board. It shall also arrange for the preparation and publication of periodic reports.

SEC. 2. The Secretary of Commerce, with respect to the collection and use of data on foreign investment in the United States, shall provide, in particular, for the performance of the following activities:

(a) The obtainment, consolidation, and analysis of information on foreign investment in the United States;

(b) the improvement of procedures for the collection and dissemination of information on such foreign investment;

(c) the close observation of foreign investment in the United States;

(d) the preparation of reports and analyses of trends and of significant developments in appropriate categories of such investment;

(e) the compilation of data and preparation of evaluations of significant investment transactions; and

(f) the submission to the Committee of appropriate reports, analyses, data and recommendations relating to foreign investment in the United States, including recommendations as to how information on foreign investment can be kept current.

SEC. 3. The Secretary of the Treasury is authorized, without further approval of the President, to make reasonable use of the resources of the Exchange Stabilization Fund, in accordance with section 10 of the Gold Reserve Act of 1934, as amended (31 U.S.C. 822a), to pay any of the expenses directly incurred by the Secretary of Commerce in the performance of the functions and activities provided by this order. This authority shall be in effect for one year, unless revoked prior thereto.

SEC. 4. All departments and agencies are directed to provide, to the extent permitted by law, such information and assistance as may be requested by the Committee or the Secretary of Commerce in carrying out their functions and activities under this order.

SEC. 5. Information which has been submitted or received in confidence shall not be publicly disclosed, except to the extent required by law; and such information shall be used by the Committee only for the purpose of carrying out the functions and activities prescribed by this order.

SEC. 6. Nothing in this order shall affect the data-gathering, regulatory, or enforcement authority of any existing department or agency over foreign investment, and the review of individual investments provided by this order shall not in any way supersede or prejudice any other process provided by law.

c. International Investment Survey Act of 1976

Text of Public Law 94-472 [S. 2839], 90 Stat. 2059, approved October 11, 1976

AN ACT To supplement the authority of the President to collect regular and periodic information on international investment.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "International Investment Survey Act of 1976".

FINDINGS AND PURPOSE

SEC. 2. (a) The Congress finds and declares that—

(1) the United States Government is presently authorized to collect limited amounts of information on United States investment abroad and foreign investment in the United States;

(2) international investment has increased rapidly within recent years;

(3) such investment significantly affects the economies of the United States and other nations;

(4) international efforts to obtain information on the activities of multinational enterprises and other international investors have accelerated recently;

(5) the potential consequences of international investment cannot be evaluated accurately because the United States Government lacks sufficient information on such investment and its actual or possible effects on the national security, commerce, employment, inflation, general welfare, and foreign policy of the United States;

(6) accurate and comprehensive information on international investment is needed by the Congress to develop an informed United States policy on such investment; and

(7) existing estimates of international investment, collected under existing legal authority, are limited in scope and are based on outdated statistical bases, reports, and information which are insufficient for policy formulation and decisionmaking.

(b) It is therefore the purpose of this Act to provide clear and unambiguous authority for the President to collect information on international investment and to provide analyses of such information to the Congress, the executive agencies, and the general public. It is the intent of the Congress that information which is collected from the public under this Act be obtained with a minimum burden on business and other respondents and with no unnecessary duplication of effort, consistent with the national interest in obtaining comprehensive and reliable information on international investment.

(c) Nothing in this Act is intended to restrain or deter foreign investment in the United States or United States investment abroad.

DEFINITIONS

SEC. 3. As used in this Act, the term—

(1) “United States”, when used in a geographic sense, means the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Canal Zone, and all territories and possessions of the United States;

(2) “foreign”, when used in a geographic sense, means that which is situated outside the United States or which belongs to or is characteristic of a country other than the United States;

(3) “person” means any individual, branch, partnership, associated group, association, estate, trust, corporation, or other organization (whether or not organized under the laws of any State), and any government (including a foreign government, the United States Government, a State or local government, and any agency, corporation, financial institution, or other entity or instrumentality thereof, including a government-sponsored agency);

(4) “United States person” means any person resident in the United States or subject to the jurisdiction of the United States;

(5) “foreign person” means any person resident outside the United States or subject to the jurisdiction of a country other than the United States;

(6) “business enterprise” means any organization, association, branch, or venture which exists for profit-making purposes or to otherwise secure economic advantage, and any ownership of any real estate;

(7) “parent” means a person of one country who, directly or indirectly, owns or controls 10 per centum or more of the voting stock of an incorporated business enterprise, or an equivalent ownership interest in an unincorporated business enterprise, which is located outside that country;

(8) “affiliate” means a business enterprise located in one country which is directly or indirectly owned or controlled by a person of another country to the extent of 10 per centum or more of its voting stock for an incorporated business or an equivalent interest for an unincorporated business, including a branch;

(9) “international investment” means (A) the ownership or control, directly or indirectly, by contractual commitment or otherwise, by foreign persons of any interest in property in the United States, or of stock, other securities, or short- and long-term debt obligations of a United States person, and (B) the ownership or control, directly or indirectly, by contractual commitment or otherwise, by United States persons of any interest in property outside the United States, or of stock, other securities, or short- and long-term debt obligations of a foreign person;

(10) “direct investment” means the ownership or control, directly or indirectly, by one person of 10 per centum or more of the voting securities of an incorporated business enterprise or an equivalent interest in an unincorporated business enterprise; and

(11) “portfolio investment” means any international investment which is not direct investment.

AUTHORITY AND DUTIES

SEC. 4. (a) The President shall, to the extent he deems necessary and feasible—

(1) conduct a regular data collection program to secure current information on international capital flows and other information related to international investment, including (but not limited to such information as may be necessary for computing and analyzing the United States balance of payments), the employment and taxes of United States parents and affiliates, and the international investment position of the United States;

(2) conduct such studies and surveys as may be necessary to prepare reports in a timely manner on specific aspects of international investment which may have significant implications for the economic welfare and national security of the United States;

(3) study the adequacy of information, disclosure, and reporting requirements and procedures relating to international investment; recommend necessary improvements in information recording, collection, and retrieval and in statistical analysis and presentation relating to international investment; and report periodically to the Committees on Foreign Relations and Commerce of the Senate and the Committee on International Relations of the House of Representatives on national and international developments with respect to laws and regulations affecting international investment; and

(4) publish for the use of the general public and United States Government agencies periodic, regular, and comprehensive statistical information collected pursuant to this subsection and to the benchmark surveys conducted pursuant to subsections (b) and (c).

(b) With respect to the United States direct investment abroad and foreign direct investment in the United States, the President shall conduct a comprehensive benchmark survey at least once every five years and, for such purpose, shall, among other things and to the extent he determines necessary and feasible—

(1) identify the location, nature, and magnitude of, and changes in total investment by any parent in each of its affiliates and the financial transactions between any parent and each of its affiliates;

(2) obtain (A) information on the balance sheets of parents and affiliates and related financial data, (B) income statements, including the gross sales by primary line of business (with as much product line detail as is necessary and feasible) of parents and affiliates in each country in which they have significant operations, and (C) related information regarding trade between a parent and each of its affiliates and between each parent or affiliate and any other person;

(3) collect employment data showing both the number of United States and foreign employees of each parent and affiliate and the levels of compensation, by country, industry, and skill level;

(4) obtain information on tax payments by parents and affiliates by country; and

(5) determine, by industry and country, the total dollar amount of research and development expenditures by each parent and affiliate, payments or other compensation for the transfer of technology between parents and their affiliates, and payments or other compensation received by parents or affiliates from the transfer of technology to other persons.

(c)(1) The President shall conduct a comprehensive benchmark survey of foreign portfolio investment in the United States at least once every five years and, for such purposes, shall (among other things and to the extent he determines necessary and feasible) determine the magnitude and aggregate value of portfolio investment, form of investments, types of investors, nationality of investors and recorded residence of foreign private holders, diversification of holdings by economic sector, and holders of record.

(2) In addition to the benchmark surveys conducted pursuant to paragraph (1), the President shall conduct a benchmark survey of United States portfolio investment abroad and, for such purpose, shall (among other things and to the extent he determines necessary and feasible) determine the magnitude and aggregate value of portfolio investment, form of investments, types of investors, nationality of investors and recorded residence of private holders, diversification of holdings by economic sector, and holders of record. The President shall complete such survey not later than the end of the five-year period beginning on the date of enactment of this Act. After completion of such survey, the President shall report to the Congress on the feasibility and desirability of conducting, on a periodic basis, additional benchmark surveys of United States portfolio investment abroad. If he determines that such additional benchmark surveys are feasible and desirable, he may conduct such surveys.

(d) The President shall conduct a study of the feasibility of establishing a system to monitor foreign direct investment in agricultural, rural, and urban real property, including the feasibility of establishing a nationwide multipurpose land data system, and shall submit his findings and conclusions to the Congress not later than two years after the enactment of this Act.

(e) Activities shall be conducted so that information obtained pursuant to this Act shall be timely and useful in the development of policy with respect to international investment. Reporting and record-keeping requirements imposed under this Act shall be designed in order to minimize costs to the extent feasible, consistent with effective enforcement and the compilation of information required by this Act. Reporting, recordkeeping, and documentation requirements shall be periodically reviewed and revised in the light of developments in the field of information technology.

(f) In collecting information under this Act, the President shall give due regard to the costs incurred by persons supplying such information, as well as to the costs incurred by the Government, and shall insure that the information collected is only in such detail as is necessary to fulfill the stated purposes for which the information is being gathered.

RULES AND REGULATIONS; ACCESS TO INFORMATION

SEC. 5. (a) The authorities and responsibilities under this Act may be exercised through such rules and regulations as may be necessary to carry out the purposes of this Act.

(b) Rules or regulations issued pursuant to this Act may require any person subject to the jurisdiction of the United States—

(1) to maintain a complete record of any information (including journals or other books of original entry, minute books, stock transfer

records, lists of shareholders, or financial statements) which is essential to carrying out the international investment surveys and studies to be conducted under this Act; and

(2) to furnish, under oath, any report containing information which is determined to be necessary to carry out the international investment surveys and studies conducted under this Act.

(c) Access to information obtained under subsection (b) (2) of this section shall be available only to officials or employees designated to perform functions under this Act, including consultants and persons working on contracts awarded pursuant to this Act. Subject to the limitation of paragraph (1) of this subsection, the President may authorize the exchange between agencies or officials designated by him of information furnished by any person under this Act as he deems necessary to carry out the purposes of this Act. Nothing in this section shall be construed to require any Federal agency to disclose to any official exercising authority under this Act any information or report collected under legal authority other than this Act where disclosure is prohibited by law. Information collected pursuant to subsection (b) (2) may be used only—

(1) for analytical or statistical purposes within the United States Government; or

(2) for the purpose of a proceeding under subsection (d) of this section or under section 6 (b) or (c).

No official or employee designated to perform functions under this Act, including consultants and persons working on contracts awarded pursuant to this Act, may publish or make available to any other person any information collected pursuant to subsection (b) (2) in a manner that the person who furnished the information can be specifically identified except as provided in this section. No person can compel the submission or disclosure of any report or constituent part thereof collected pursuant to this Act, or any copy of such report or constituent part thereof, without the prior written consent of the person who maintained or furnished such report under subsection (b) and without prior written consent of the customer, where the person who maintained or furnished such report included information identifiable as being derived from the records of such customer.

(d) Any person who willfully violates subsection (c) shall, upon conviction, be fined not more than \$10,000, in addition to any other penalty imposed by law.

ENFORCEMENT

SEC. 6. (a) Whoever fails to furnish any information required under this Act, whether required to be furnished in the form of a report or otherwise, or to comply with any rule, regulation, order, or instruction promulgated under this Act, may be subject to a civil penalty not exceeding \$10,000 in a proceeding brought under subsection (b) of this section.

(b) Whenever it appears that any person has failed to furnish any information required under this Act, whether required to be furnished in the form of a report or otherwise, or has failed to comply with any rule, regulation, order, or instruction promulgated under this Act, a civil action may be brought in an appropriate district court of the United States, or the appropriate United States court of any territory or other place subject to the jurisdiction of the United

States, and such court may enter a restraining order or a permanent or temporary injunction commanding such person to furnish such information or to comply with such rule, regulation, order, or instruction, as the case may be, or impose the civil penalty provided in subsection (a) of this section, or both.

(c) Whoever willfully fails to submit any information required under this Act, whether required to be furnished in the form of a report or otherwise, or willfully violates any rule, regulation, order, or instruction promulgated under this Act, upon conviction, shall be fined not more than \$10,000 and, if an individual, may be imprisoned for not more than one year, or both, and any officer, director, employee, or agent of any corporation who knowingly participates in such violation, upon conviction, may be punished by a like fine, imprisonment, or both.

USE OF EXPERTS AND ADMINISTRATIVE SUPPORT SERVICES

SEC. 7. (a) Any official designated by the President to carry out this Act may procure the temporary or intermittent services of experts and consultants in accordance with the provisions of section 3109 of title 5, United States Code. Persons so employed shall receive compensation at a rate not in excess of the maximum amount payable under such section. While away from his home or regular place of business and engaged in the performance of services in conjunction with the provisions of this Act, any such person may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703(b) of title 5, United States Code, for persons in the Government service employed intermittently.

(b) Any official designated by the President to carry out this Act may use, on a reimbursable basis when appropriate (as determined by the President), the available services, equipment, personnel, and facilities of any agency or instrumentality of the United States Government.

CONSULTATIONS AND REVIEWS

SEC. 8. (a) Officials performing functions pursuant to this Act shall secure balanced, diverse, and responsible views from qualified persons representing business, organized labor, and the academic community and may, where appropriate, create such independent public advisory committees as are necessary to carry out the purposes of this Act.

(b) It shall be the responsibility of the Council on International Economic Policy to review the results of any studies and surveys conducted pursuant to this Act and report annually to the Committee on International Relations of the House of Representatives and the appropriate committees of the Senate on any trends or developments which may have national policy implications and which in the Council's opinion warrant the review of the respective committees.

AUTHORIZATIONS OF APPROPRIATIONS

SEC. 9. To carry out this Act, there is authorized to be appropriated \$1,000,000 for the fiscal year ending September 30, 1978, and \$1,000,000 for the fiscal year ending September 30, 1979.

d. Executive Order 11961, January 19, 1977, 42 F.R. 4321

ADMINISTRATION OF THE INTERNATIONAL INVESTMENT SURVEY ACT OF 1976

By virtue of the authority vested in me by the International Investment Survey Act of 1976 (90 Stat. 2059, 22 U.S.C. 3101), and section 301 of title 3 of the United States Code, and as President of the United States of America, it is hereby ordered as follows:

Section 1. All the functions vested in the President by the International Investment Survey Act of 1976 (90 Stat. 2059, 22 U.S.C. 3101), hereinafter referred to as the Act, are hereby delegated to the Director of the Office of Management and Budget, hereinafter referred to as the Director. The Director may, from time to time, designate other officers or agencies of the Federal Government to perform any or all of the functions hereby delegated to the Director, subject to such instructions, limitations, and directions as the Director deems appropriate.

Sec. 2. Subject to the provisions of section 1 of this order, and in the absence of any contrary delegation or direction by the Director, the Secretary of the Treasury, with respect to portfolio investment shall perform the functions set forth in sections 4(a) (1), (2), (4) and 4(c) of the Act.

Sec. 3. Subject to the provisions of section 1 of this order, and in the absence of any contrary delegation or direction by the Director, the Secretary of Commerce, with respect to direct investment, shall perform the functions set forth in sections 4(a) (1), (2), (4) and 4(b) of the Act.

Sec. 4. Subject to the provisions of section 1 of this order, and in the absence of any contrary delegation or direction by the Director, the Council on International Economic Policy shall perform the function of making periodic reports to the Committees of the Congress as set forth in Section 4(a) (3) of the Act.

e. Executive Order 11962, January 19, 1977, 42 F.R. 4323

ESTABLISHING THE PRESIDENT'S ADVISORY BOARD ON INTERNATIONAL INVESTMENT

By virtue of the authority vested in me by the Constitution and statutes of the United States of America, including section 8(a) of the International Investment Survey Act of 1976 (90 Stat. 2064, 22 U.S.C. 3107), and as President of the United States of America, in accordance with the provisions of the Federal Advisory Committee Act (5 U.S.C. App. I) it is hereby ordered as follows:

Section 1. (a) There is hereby established the President's Advisory Board on International Investment, hereinafter referred to as the Board which shall be composed of not more than fifteen members who shall be appointed by the President. Each member shall serve for a term limited to the remaining life of the Board as determined at the time of appointment.

(b) The President shall designate a Chairman and Vice Chairman from among the members.

Sec. 2. (a) Whenever requested, the Board shall advise the Executive Director of the Council on International Economic Policy, hereinafter referred to as the Executive Director, the Director of the Office of Management and Budget, and the heads of other agencies, with respect to matters relating to the performance of their functions under the International Investment Survey Act of 1976 (90 Stat. 2059, 22 U.S.C. 3101).

(b) In making its recommendations, the Board shall give due consideration to the usefulness of data to be collected as compared to the burden imposed on those who are to furnish the data.

Sec. 3. (a) The Executive Director shall, to the extent permitted by law, provide administrative and staff services, support, and facilities for the Board.

(b) The Executive Director shall appoint an Executive Secretary for the Board.

Sec. 4. Members of the Board may be compensated for their services in accord with 5 U.S.C. 3109, and may, to the extent permitted by law, be allowed travel expenses, including per diem in lieu of subsistence, as authorized by law (5 U.S.C. 5702 and 5703) for persons in the government service employed intermittently.

Sec. 5. Notwithstanding the provisions of any other Executive order, the functions of the President under the Federal Advisory Committee Act (5 U.S.C. App. I), except that of reporting annually to the Congress which are applicable to the Board, shall be performed by the Executive Director in accordance with guidelines and procedures established by the Office of Management and Budget.

Sec. 6. The Board shall terminate on December 31, 1978, unless sooner extended.

8. Resolution With Respect to the World Food Situation

Considered and agreed to by the House [H. Res. 1399, 93d Congress]
December 9, 1974.

RESOLUTION

Whereas the current world food supply, including reserves, is dangerously low, with millions of people in South Asia and in the African Sahel facing famine; and

Whereas higher prices for food, energy, and fertilizer, together with fertilizer shortages, are causing particular hardship to poor developing nations; and

Whereas rapid population growth aggravates food shortages, and declines in population growth rates historically have been associated with economic and social progress; and

Whereas the American people have a long and proud tradition of combating hunger at home and abroad; and

Whereas it is in the interest of the United States and of all other nations to overcome food shortages, which cause human suffering, breed economic and political instability, and raise food prices both at home and abroad; and

Whereas the world community has recognized the dimensions of the crisis by convening the World Population Conference and the World Food Conference this year; and

Whereas President Ford in his address to the 1974 United Nations General Assembly recognized the urgency of the world food crisis and pledged (1) substantially increased United States assistance to agricultural production programs in other countries, (2) United States support for an international system of food reserves, and (3) increased United States spending for food shipments to needy nations: Now, therefore, be it

Resolved, That it is the sense of the House of Representatives that—

(1) the United States should vigorously pursue efforts to help poor countries (A) increase agriculture production, especially through labor intensive, small farm agriculture, (B) promote economic and social development programs, and (C) assist in population programs, when requested, including continued encouragement of voluntary family planning; and

(2) increased food aid should be provided as needed to meet specific short-term emergencies; and

(3) planning should be undertaken immediately by appropriate Government agencies to enable the United States to provide the increased food aid, including plans to prevent any increased domestic inflation as a result of United States relief shipments; and

(4) all nations—including industrial and food-exporting countries, oil-exporting countries, and the developing countries themselves—should join in the effort to combat food shortages; and

(5) international agreement should be sought for a system of food reserves to meet food shortage emergencies and to provide insurance against unexpected shortfalls in food production, with costs to be equitably shared and farmers given firm safeguards against market price disruption from such a system; and

(6) the President should encourage reduction in domestic consumption of fertilizer for nonfarm purposes in order to increase fertilizer supplies for the production of food in this country and in the developing countries, and should undertake efforts to stimulate increased world fertilizer production both here and abroad.

9. Collection and Publication of Foreign Commerce and Trade Statistics

Public Law 87-826, approved Oct. 15, 1962, 76 Stat. 951-52 (13 U.S.C. 301-307)

§ 301. Collection and publication.

The Secretary is authorized to collect information from all persons exporting from, or importing into, the United States and the noncontiguous areas over which the United States exercises sovereignty, jurisdiction, or control, and from all persons engaged in trade between the United States and such noncontiguous areas and between those areas, or from the owners, or operators of carriers engaged in such foreign commerce or trade, and shall compile and publish such information pertaining to exports, imports, trade, and transportation relating thereto, as he deems necessary or appropriate to enable him to foster, promote, develop, and further the commerce, domestic and foreign, of the United States and for other lawful purposes.

EFFECTIVE DATE

Section 4 of Pub. L. 87-826 provided that: "The provisions of this Act [enacting this chapter and repealing sections 173, 174, 177, 179, 181, 184-187, and 193 of Title 15, Commerce and Trade, sections 92 and 95 of Title 46, Shipping and section 1486 of Title 48 Territories and Insular Possessions] shall take effect one hundred and eighty days after approval [Oct. 15, 1962], except that the last sentence of section 337, "Fifth" of the Revised Statutes [section 174 of Title 15], and the requirement for oaths as found in section 4200 of the Revised Statutes [section 92 of Title 46] shall be repealed effective on the date this Act is approved [Oct. 15, 1962]."

§ 302. Rules, regulations, and orders.

The Secretary may make such rules, regulations, and orders as he deems necessary or appropriate to carry out the provisions of this chapter. Any rules, regulations, or orders issued pursuant to this authority may be established in such form or manner, may contain such classifications or differentiations, and may provide for such adjustments and reasonable exceptions as in the judgment of the Secretary are necessary or proper to effectuate the purpose of this chapter, or to prevent circumvention or evasion of any rule, regulation, or order issued hereunder. The Secretary may also provide by rule or regulation, for such confidentiality, publication, or disclosure, of information collected hereunder as he may deem necessary or appropriate in the public interest. Rules, regulations, and orders, or amendments thereto shall have the concurrence of the Secretary of the Treasury prior to promulgation.

§ 303. Secretary of Treasury functions.

To assist the Secretary to carry out the provisions of this chapter, the Secretary of the Treasury shall collect information in the form and

manner prescribed by the regulations issued pursuant to this chapter from persons engaged in foreign commerce or trade, other than by mail, and from the owners or operators of carriers.

§ 304. Filing export information, delayed filings, penalties for failure to file.

(a) The information or reports in connection with the exportation or transportation of cargo required to be filed by carriers with the Secretary of the Treasury under any rule, regulation, or order issued pursuant to this chapter may be filed after the departure of such carrier from the port or place of exportation or transportation, whether such departing carrier is destined directly to a foreign port or place or to a noncontiguous area, or proceeds by way of other ports or places of the United States, provided that a bond in an approved form in the penal sum of \$1,000 is filed with the Secretary of the Treasury. The Secretary of Commerce may, by a rule, regulation, or order issued in conformity herewith, prescribe a maximum period after such departure during which the required information or reports may be filed. In the event any such information or report is not filed within such prescribed period, a penalty not to exceed \$100 for each day's delinquency beyond the prescribed period, but not more than \$1,000 shall be exacted. Civil suit may be instituted in the name of the United States against the principal and surety for the recovery of any penalties that may accrue and be exacted in accordance with the terms of the bond.

(b) The Secretary may remit or mitigate any penalty incurred for violations of this section and regulations issued pursuant thereto if, in his opinion, they were incurred without willful negligence or fraud, or other circumstances justify a remission or mitigation.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 305 of this title.

§ 305. Violations, penalties.

Any person, including the owners or operators of carriers, violating the provisions of this chapter, or any rule, regulation, or order issued thereunder, except as provided in section 304 above, shall be liable to a penalty not to exceed \$1,000 in addition to any other penalty imposed by law. The amount of any such penalty shall be payable into the Treasury of the United States and shall be recoverable in a civil suit in the name of the United States.

§ 306. Delegation of functions.

Subject to the concurrence of the head of the department or agency concerned, the Secretary may make such provisions as he shall deem appropriate, authorizing the performance by any officer, agency or employee of the United States Government departments or offices, or the governments of any areas over which the United States exercises sovereignty, jurisdiction, or control, of any function of the Secretary, contained in this chapter.

§ 307. Relationship to general census law.

The following sections only, 1, 2, 3, 4, 5, 6, 7, 11, 21, 22, 23, 24, 211, 212, 213, and 214, of chapters 1 through 7 of this title are applicable to this chapter.

H. FINANCIAL INSTITUTIONS

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1. Export-Import Bank Act of 1945, as Amended

Public Law 79-173 [H.R. 3771], 59 Stat. 526, approved July 31, 1945, as amended by Public Law 79-232 [H.R. 4683], 59 Stat. 666, approved December 28, 1945; Public Law 80-89 [S. 993], 61 Stat. 130, approved June 9, 1947; Public Law 82-158 [S. 2006], 65 Stat. 367, approved October 3, 1951; Public Law 83-30 [H.R. 4465], 67 Stat. 28, approved May 21, 1953; Public Law 83-570 [S. 3589], 68 Stat. 677, approved August 9, 1954; Public Law 83-779 [H.R. 9730], 68 Stat. 1237, approved September 3, 1954, Public Law 85-55 [H.R. 4136], 71 Stat. 82, approved June 17, 1957; Public Law 85-424 [S. 3149], 72 Stat. 133, approved May 22, 1958; Public Law 87-311 [S. 2325], 75 Stat. 673, approved September 26, 1961; Public Law 88-101 [H.R. 3872], 77 Stat. 128, approved August 20, 1963; Public Law 89-348 [S. 2150], 79 Stat. 1312, approved November 8, 1965; Public Law 90-267 [S. 1155], 82 Stat. 47, approved March 13, 1968; Public Law 92-126 [S. 581], 86 Stat. 345, approved August 17, 1971; Public Law 93-331 [S.J. Res. 218], 88 Stat. 289, approved July 4, 1974; Public Law 93-374 [S.J. Res. 229], 88 Stat. 445, approved August 14, 1974; Public Law 93-425 [S.J. Res. 244], 88 Stat. 1166, approved September 30, 1974; Public Law 93-450 [S.J. Res. 251], 88 Stat. 1363, approved October 18, 1974; Public Law 93-646 [H.R. 15977], 88 Stat. 2333, approved January 4, 1975; and by Public Law 95-143 [H.R. 6415], 91 Stat. 1210, approved October 26, 1977

AN ACT To provide for increasing the lending authority of the Export-Import Bank of Washington, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as "the Export-Import Bank Act of 1945."

Sec. 2. (a) (1)¹ There is hereby created a corporation with the name Export-Import Bank of the United States² which shall be an agency of the United States of America. The objects and purposes of the Bank shall be to aid in financing and to facilitate exports and imports and the exchange of commodities between the United States or any of its territories or insular possessions and any foreign country or the agencies or nationals thereof. In connection with and in furtherance of its objects and purposes, the Bank is authorized and empowered to do a general banking business except that of circulation; to receive deposits; to purchase, discount, rediscount, sell, and negotiate, with or without its endorsement or guaranty, and to guarantee notes, drafts, checks, bills of exchange, acceptances, including bankers' acceptances, cable transfers, and other evidences of indebtedness; to guarantee, insure, co-insure, reinsure against political and credit risks of loss;³ to purchase, sell, and guarantee securities but not to purchase with its funds any stock in any other corporation except that it may acquire any such stock, through the enforcement of any lien or pledge or otherwise to satisfy a previously contracted indebtedness to it; to accept bills and drafts drawn upon it; to issue letters of credit; to purchase and sell coin, bullion, and exchange; to borrow and to lend money; to perform

¹ 12 U.S.C. 635, Subsection (a) (1) amended by Act of December 28, 1945 (59 Stat. 666), and by Act of June 9, 1947 (61 Stat. 130). Paragraph (2) was added by Public Law 92-126, 85 Stat. 346, approved August 17, 1971.

² The name of the Bank, "Export-Import Bank of Washington", was changed to "Export-Import Bank of the United States" by Public Law 90-267, 82 Stat. 47.

³ Added by Sec. 2 of Public Law 93-646 (88 Stat. 2333).

any act herein authorized in participation with any other person, including any individual, partnership, corporation, or association; to adopt, alter, and use a corporate seal, which shall be judicially noticed; to sue and to be sued, to complain and to defend in any court of competent jurisdiction; to represent itself or to contract for representation in all legal and arbitral proceedings outside the United States; ³ and the enumeration of the foregoing powers shall not be deemed to exclude other powers necessary to the achievement of the objects and purposes of the Bank. The Bank shall be entitled to the use of the United States mails in the same manner and upon the same conditions as the executive departments of the Government. The Bank is authorized to publish or arrange for the publication of any documents, reports, contracts, or other material necessary in connection with or in furtherance of its objects and purposes without regard to the provisions of section 501 of title 44, United States Code, whenever the Bank determines that publication in accordance with the provisions of such section would not be practicable.³ The Bank is hereby authorized to use all of its assets and all moneys which have been or may hereafter be allocated to or borrowed by it in the exercise of its functions. Net earnings of the Bank after reasonable provision for possible losses shall be used for payment of dividends on capital stock. Any such dividends shall be deposited into the Treasury as miscellaneous receipts.

(2)⁴ The receipts and disbursements of the Bank in the discharge of its functions shall not be included in the totals of the budget of the United States Government and shall be exempt from any annual expenditure and net lending (budget outlays) limitations imposed on the budget of the United States Government. In accordance with the provisions of the Government Corporation Control Act, the President shall transmit annually to the Congress a budget for program activities and for administrative expenses of the Bank, which budget shall also include the estimated annual net borrowing by the Bank from the United States Treasury. The President shall report annually to the Congress the amount of net lending of the Bank, including any net lending created by the net borrowing from the United States Treasury, which would be included in the totals of the budget of the United States Government if the Bank's activities were not excluded from those totals as a result of this section.

(b) (1) ⁵ (A) It is the policy of the United States to foster expansion of exports of goods and related services, thereby contributing to the promotion and maintenance of high levels of employment and real income and to the increased development of the productive resources of the United States. To meet this objective, the Export-Import Bank is directed, in the exercise of its functions, to provide guarantees, insurance, and extensions of credit at rates and on terms and other conditions which are competitive with the Government-supported rates and terms and other conditions available for the financing of exports from the principal countries whose exporters compete with United States

⁴ Paragraph (2) was added by Public Law 92-126, 85 Stat. 346, approved August 17, 1971. Section 13 of Public Law 93-646 (88 Stat. 2333 at 2337) provided that "Effective at the close of September 30, 1976, section 2(a)(2) of the Export-Import Bank Act of 1945 is repealed."

⁵ As amended and restated by Public Law 92-126 (85 Stat. 345) and by Sec. 3 of Public Law 93-646 (88 Stat. 2333).

exporters. The Bank shall, in cooperation with the export financing instrumentalities of other governments, seek to minimize competition in government-supported export financing and shall, in cooperation with other appropriate United States Government agencies, seek to reach international agreements to reduce government subsidized export financing.⁶ The Bank shall, on a semiannual basis, report to the appropriate committees of Congress its actions in complying with these directives. In this report the Bank shall include a survey of all other major export-financing facilities available from other governments and government-related agencies through which foreign exporters compete with United States exporters and indicate in specific terms the ways in which the Bank's rates, terms, and other conditions compare with those offered from such other governments directly or indirectly. Further, the Bank shall at the same time survey a representative number of United States exporters and United States commercial lending institutions which provide export credit to determine their experience in meeting financial competition from other countries whose exporters compete with United States exporters. The results of this survey shall be included as part of the semiannual report required by this subparagraph. The Bank shall also include in the semiannual report a description of each loan by the Bank involving the export of any product or service related to the production, refining, or transportation of any type of energy or the development of any energy resource with a statement assessing the impact, if any, on the availability of such products, services, or energy supplies thus developed for use within the United States.

(B) It is further the policy of the United States that loans made by the Bank shall bear interest at rates determined by the Board of Directors of the Bank, taking into consideration the average cost of money to the Bank as well as the Bank's mandate to support United States exports at rates and on terms and conditions which are competitive with exports of other countries; that the Bank in the exercise of its functions should supplement and encourage, and not compete with, private capital; that the Bank shall accord equal opportunity to export agents and managers, independent export firms, and small commercial banks in the formulation and implementation of its programs; that the Bank shall give due recognition to the policy stated in section 2(a) of the Small Business Act that "the Government should aid, counsel, assist, and protect, insofar as is possible, the interests of small business concerns in order to preserve free competitive enterprise" and that in furtherance of his policy the Board of Directors shall designate an officer of the Bank who shall be responsible to the President of the Bank for all matters concerning or affecting small business concerns and who, among other duties, shall be responsible for advising small businessmen of the opportunities for small business concerns in the functions of the Bank and for maintaining liaison with the Small Business Administration and other departments and agencies in matters affecting small business concerns; that loans, so far as possible consistent with the carrying out of the purposes of subsection (a) of this section, shall generally be for specific purposes, and,

⁶ The words to this point beginning with "and shall, in cooperation with . . ." were added by Sec. 1 of Public Law 95-143 (91 Stat. 1210).

in the judgment of the Board of Directors, offer reasonable assurance of repayment; and that in authorizing any loan or guarantee, the Board of Directors shall take into account any serious adverse effect of such loan or guarantee on the competitive position of United States industry, the availability of materials which are in short supply in the United States, and employment in the United States, and shall also take into account, in consultation with the Secretary of State, the observance of and respect for human rights in the country to receive the exports supported by a loan or financial guarantee and the effect such exports may have on human rights in such country.⁷

(2) ⁸ The Bank in the exercise of its functions shall not guarantee, insure, or extend credit, or participate in any extension of credit—

(A) in connection with the purchase or lease of any product by a Communist country (as defined in section 620(f) of the Foreign Assistance Act of 1961), or agency or national thereof, or

(B) in connection with the purchase or lease of any product by any other foreign country, or agency, or national thereof, if the product to be purchased or leased by such other country, agency, or national is, to the knowledge of the Bank, principally for use in, or sale or lease to, a Communist country (as so defined), unless the President determines that guarantees, insurance, or extensions of credit in connection therewith to such Communist or such other country or agency or national thereof would be in the national interest. The President shall make a separate determination with respect to each transaction in which the Bank would extend a loan to such Communist or such other country, or agency, or national thereof an amount of \$50,000,000 or more. Any determination required under the first sentence of this paragraph shall be reported to the Congress not later than the earlier of thirty days following the date of such determination, or the date on which the Bank takes final action on a transaction which is the first transaction involving such country or agency or national after the date of enactment of the Export-Import Bank Amendments of 1974, unless a determination with respect to such country or agency or national has been made and reported prior to such date of enactment. Any determination required to be made under the second sentence of this paragraph shall be reported to the Congress not later than the earlier of thirty days following the date of such determination or the date on which the Bank takes final action on the transaction involved.

(3) ⁹ No loan or financial guarantee or combination thereof (i) in an amount which equals or exceeds \$60,000,000, (ii) in an amount which equals or exceeds \$25,000,000 for the export of goods or services involving research, exploration, or production of fossil fuel energy resources in the Union of Soviets Socialist Republics, or (iii) for the export of technology, fuel, equipment, materials, or goods or services to

⁷ The words to this point beginning with "and shall also take into account, * * *" were added by Sec. 2 of Public Law 95-143 (91 Stat. 1210).

⁸ As amended and restated by Public Law 90-267 (82 Stat. 48) and by Sec. 4 of Public Law 93-646 (88 Stat. 2333 at 2334).

⁹ Section 5 of Public Law 93-646 (88 Stat. 2333 at 2335) inserted paragraph (3) and redesignated paragraphs (3), (4), and (5) of the existing law as paragraphs (4), (5), and (6), respectively (these paragraphs were again redesignated as paragraphs (5), (6) and (7) by Public Law 95-143). Paragraph 3 was amended and restated by Sec. 3(a) of Public Law 95-143 (91 Stat. 1210).

be used in the construction, alteration, operation, or maintenance of nuclear power, enrichment, reprocessing, research, or heavy water production facilities, shall be finally approved by the Board of Directors of the Bank, unless in each case the Bank has submitted to the Congress with respect to such loan, financial guarantee, or combination thereof, a detailed statement describing and explaining the transaction, at least 25 days of continuous session of the Congress prior to the date of final approval. For the purpose of the preceding sentence, continuity of a session of the Congress shall be considered as broken only by an adjournment of the Congress sine die, and the days on which either House is not in session because of an adjournment of more than 3 days to a day certain shall be excluded in the computation of the 25 day period referred to in such sentence. Such statement shall contain—

(A) a brief description of the purposes of the transaction, the identity of the party or parties requesting the loan or financial guarantee, the nature of the goods or services to be exported, and the use for which the goods or services are to be exported; and

(B) a full explanation of the reasons for Bank financing of the transaction, the amount of the loan to be provided by the Bank, the approximate rate and repayment terms at which such loan will be made available and the approximate amount of the financial guarantee.

(4)¹⁰ The Secretary of State shall report to the appropriate committees of Congress and to the Board of Directors of the Export-Import Bank if he determines that any country that has agreed to International Atomic Energy Agency nuclear safeguards materially violates, abrogates, or terminates, after the date of enactment of this paragraph, such safeguards or that any country that has entered into an agreement for cooperation concerning the civil use of nuclear energy with the United States materially violates, abrogates, or terminates, after the date of enactment of this paragraph, any guarantee or other undertaking to the United States made in such agreement or that any country that is not a nuclear-weapons state (as defined in article IX(3) of the Treaty on the Non-Proliferation of Nuclear Weapons) detonates, after the date of enactment of this paragraph, a nuclear explosive device. The Secretary shall specify which country or countries he has determined to have so acted, and the Board shall not give approval to guarantee, insure, or extend credit, or participate in the extension of credit in support of United States exports to such country unless the President determines that it is in the national interest for the Bank to guarantee, insure, or extend credit, or participate in the extension of credit in support of United States exports to such country and such determination has been reported to the Congress not less than twenty-five day of continuous session of the Congress prior to the date of such approval. For the purpose of the preceding sentence, continuity of a session of the Congress shall be considered as broken only by an adjournment of the Congress sine die, and the days on which either House is not in session because of an

¹⁰ Section 3(b) of Public Law 95-143 (91 Stat. 1210) added paragraph (4) and redesignated paragraphs (4) through (6) as paragraphs (5) through (7), respectively.

adjournment of more than three days to a day certain shall be excluded in the computation of the twenty-five day period referred to in such sentence.

(5)¹¹ The Bank shall not guarantee, insure, or extend credit, or participate in the extension of credit in connection with (A) the purchase of any product, technical data, or other information by a national or agency of any nation which engages in armed conflict declared or otherwise, with the Armed Forces of the United States, (B) the purchase by any nation (or national or agency thereof) of any product, technical data, or other information which is to be used principally by or in any such nation described in clause (A). The Bank shall not guarantee, insure, or extend credit, or participate in the extension of credit in connection with the purchase of any product, technical data, or other information by a national or agency of any nation if the President determines that any such transaction would be contrary to the national interest, or (C) the purchase of any liquid metal fast breeder nuclear reactor or any nuclear fuel reprocessing facility.¹²

(6)⁸ The Bank shall not guarantee, insure, or extend credit, or participate in an extension of credit in connection with any credit sale of defense articles and defense services to any country designated under section 4916 of the Internal Revenue Code of 1954 as an economically less developed country for purposes of the tax imposed by section 4911 of that Code. The prohibitions set forth in this paragraph shall not apply with respect to any transaction the consummation of which the President determines would be in the national interest and reports such determination (within thirty days after making the same) to the Senate and House of Representatives. In making any such determination the President shall take into account, among other considerations, the national interest in avoiding arm races among countries not directly menaced by the Soviet Union or by Communist China; in avoiding arming military dictators who are denying social progress to their own peoples; and in avoiding expenditures by developing countries of scarce foreign exchange needed for peaceful economic progress.

(7)⁸ In no event shall the Bank have outstanding at any time in excess of 7½ per centum of the limitation imposed by section 7 of this Act for such guarantees, insurance, credits or participation in credits with respect to exports of defense articles and services to countries which, in the judgment of the Board of Directors of the Bank, are less developed.

(c) (1)¹³ The Bank is authorized and empowered to charge against the limitations imposed by section 7 of this Act, not less than 25 per centum of the related contractual liability which the Bank incurs for guarantees, insurance, coinsurance, and reinsurance against political and credit risks of loss. The aggregate amount of guarantees, insurance, coinsurance, and reinsurance which may be charged on this fractional basis pursuant to this section shall not exceed \$20,000,000,000¹⁴ outstanding at any one time. Fees and premiums

¹¹ Section 2(b)(3) (subsequently redesignated as Sec. 2(b)(5)) was amended and restated by Public Law 92-126, 85 Stat. 346, approved August 17, 1971. Previously added by Public Law 90-267 (82 Stat. 48).

¹² Clause (C) was added by Sec. 3(c) of Public Law 95-143 (91 Stat. 1211).

¹³ As amended and restated by Sec. 6 of Public Law 93-646 (88 Stat. 2333 at 2335).

¹⁴ Sec. 1(a) of Public Law 88-101 (77 Stat. 128), changed the sum to "\$2,000,000,000"; Sec. 1(c) of Public Law 90-267 (82 Stat. 49) increased the sum to "\$3,500,000,000"; Sec. 1(b)(2) of Public Law 92-126 increased the sum to "\$10,000,000,000"; and Sec. 6 of Public Law 93-646 (88 Stat. 2333 at 2336) increased the sum to \$20,000,000.

shall be charged in connection with such contracts commensurate, in the judgment of the Bank, with the risks covered.

(2) The Bank may issue such guarantees, insurance, coinsurance, and reinsurance to or with exporters, insurance companies, financial institutions, or others, or groups thereof, and where appropriate may employ any of the same to act as its agent in the issuance and servicing of such guarantees, insurance, coinsurance, and reinsurance, and the adjustment of claims arising thereunder.

Sec. 3.¹⁵ (a) The Export-Import Bank of the United States shall constitute an independent agency of the United States and neither the Bank nor any of its functions, powers, or duties shall be transferred to or consolidated with any other department, agency, or corporation of the Government unless the Congress shall otherwise by law provide.

(b) There shall be a President of the Export-Import Bank of the United States, who shall be appointed by the President of the United States by and with the advice and consent of the Senate, who shall receive a salary at the rate of \$40,000¹⁶ per annum, and who shall serve as chief executive officer of the Bank. There shall be a First Vice President of the Bank, who shall be appointed by the President of the United States by and with the advice and consent of the Senate, who shall receive a salary at the rate of \$38,000¹⁷ per annum, who shall serve as President of the Bank during the absence or disability of or in the event of a vacancy in the office of President of the Bank, and who shall at other times perform such functions as the President of the Bank may from time to time prescribe.

(c) There shall be a Board of Directors of the Bank consisting of the President of the Export-Import Bank of the United States who shall serve as Chairman, the First Vice President who shall serve as Vice Chairman, and three additional persons appointed by the President of the United States by and with the advice and consent of the Senate. Of the five members of the Board, not more than three shall be members of any one political party. Each director, other than the President of the Export-Import Bank and the Vice President of the Export-Import Bank, shall receive a salary at the rate of \$38,000¹⁸ per annum. Before entering upon his duties, each of the directors shall take an oath faithfully to discharge the duties of his office. Terms of the directors shall be at the pleasure of the President of the United States, and the directors, in addition to their duties as members of the Board, shall perform such additional duties and may hold such other offices in the administration of the Bank as the President of the Bank may from time to time prescribe. A majority of the Board of Directors shall constitute a quorum. The Board of Directors shall adopt, and may from time to time amend, such bylaws as are necessary for the proper management and functioning of the Bank, and shall, in such bylaws, designate the vice presidents and other officers of the Bank and prescribe their duties.

¹⁵ 12 U.S.C. 635a, as amended by Act of August 9, 1954 (68 Stat. 677) and by Public Law 90-267, 82 Stat. 49, March 13, 1968.

¹⁶ Present salary provided by Public Law 90-206, 81 Stat. 638, Dec. 16, 1967, 5 U.S.C. 5314(42); H. Doc. 91-51 (1969).

¹⁷ Present salary provided by Public Law 90-206, 81 Stat. 638, Dec. 16, 1967, 5 U.S.C. 5315(49); H. Doc. 91-51 (1969).

¹⁸ Present salary provided by Public Law 90-206, 81 Stat. 638, Dec. 16, 1967, 5 U.S.C. 5315(56); H. Doc. 91-51 (1969).

(d) There shall be an Advisory Committee of nine members, appointed by the Board of Directors on the recommendation of the President of the Bank, who shall be broadly representative of production, commerce, finance, agriculture, and labor. The Advisory Committee shall meet one or more times per year, on the call of the President of the Bank, to advise with the Bank on its program. Members, not otherwise in the regular full-time employ of the United States, may be compensated at rates not exceeding the per diem equivalent of the rate for grade 18 of the General Schedule (5 U.S.C. 5332) for each day spent in travel or attendance at meetings of the Committee, and while so serving away from their homes or regular places of business, they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for individuals in the Government service employed intermittently.

(e) No director, officer, attorney, agent, or employee of the bank shall in any manner, directly or indirectly, participate in the deliberation upon or the determination of any question affecting his personal interests, or the interests of any corporation, partnership, or association in which he is directly or indirectly personally interested.

Sec. 4.¹⁹ The Export-Import Bank of the United States shall have a capital stock of \$1,000,000,000 subscribed by the United States. Payments for \$1,000,000 of such capital stock shall be made by the surrender to the Bank for cancellation of the common stock heretofore issued by the Bank and purchased by the United States. Payment for \$174,000,000 of such capital stock shall be made by the surrender to the Bank for cancellation of the preferred stock heretofore issued by the Bank and purchased by the Reconstruction Finance Corporation. Payment for the \$825,000,000 balance of such capital stock shall be subject to call at any time in whole or in part by the Board of Directors of the Bank. For the purpose of making payments of such balance, the Secretary of the Treasury is authorized to use as a public-debt transaction the proceeds of any securities hereafter issued under the Second Liberty Bond Act, as amended, and the purposes for which securities may be issued under that Act are extended to include such purpose. Payment under this section of the subscription of the United States to the Bank and repayments thereof shall be treated as public-debt transactions of the United States. Certificates evidencing stock ownership of the United States shall be issued by the Bank to the President of the United States, or to such other person or persons as he may designate from time to time to the extent of the common and preferred stock surrendered and other payments made for the capital stock of the Bank under this section.

Sec. 5.²⁰ (a) The Secretary of the Treasury shall pay to the Reconstruction Finance Corporation the par value of the preferred stock upon its surrender to the Bank for cancellation. For the purpose of making such payments to the Reconstruction Finance Corporation the Secretary of the Treasury is authorized to use as a public-debt transaction the proceeds of any securities hereafter issued under the Second Liberty Bond Act, as amended, and the purposes for which securities

¹⁹ 12 U.S.C. 635b. Public Law 90-267 (82 Stat. 47), changed the name of the bank to Export-Import Bank of the United States.

²⁰ 12 U.S.C. 635c.

may be issued under that Act are extended to include such purpose. Payment under this subsection to the Reconstruction Finance Corporation shall be treated as public-debt transactions of the United States.

(b) Any dividends on the preferred stock accumulated and unpaid to the date of its surrender for cancellations shall be paid to the Reconstruction Finance Corporation by the Bank.

Sec. 6.²¹ The Export-Import Bank of the United States is authorized to issue from time to time for purchase by the Secretary of the Treasury its notes, debentures, bonds, or other obligations; but the aggregate amount of such obligations outstanding at any one time shall not exceed \$6,000,000,000. Such obligations shall be redeemable at the option of the Bank before maturity in such manner as may be stipulated in such obligations and shall have such maturity as may be determined by the Board of Directors of the Bank with the approval of the Secretary of the Treasury. Each such Bank obligation issued to the Treasury after the enactment of the Export-Import Bank Amendments of 1974 shall bear interest at a rate not less than the current average yield on outstanding marketable obligations of the United States of comparable maturity during the month preceding the issuance of the obligation of the Bank as determined by the Secretary of the Treasury. The Secretary of the Treasury is hereby authorized and directed to purchase any obligations of the Bank issued hereunder and for such purpose the Secretary of the Treasury is authorized to use as a public-debt transaction the proceeds of any securities hereafter issued under the Second Liberty Bond Act, as amended, and the purposes for which securities may be issued under that Act are extended to include such purpose. Payment under this section of the purchase price of such obligations of the Bank and repayments thereof by the Bank shall be treated as public-debt transactions of the United States.

Sec. 7. (a)²² The Export-Import Bank of the United States shall not have outstanding at any one time loans, guaranties, and insurance in an aggregate amount in excess of \$25,000,000,000.

(b) After the date of enactment of the Export-Import Bank Amendments of 1974, the Bank shall not approve any loans or financial guaranties, or combination thereof, in connection with exports to the Union of Soviet Socialist Republics in an aggregate amount in excess of \$300,000,000. No such loan or financial guarantee, or combination thereof, shall be for the purchase, lease, or procurement of any product or service for production (including processing and distribution) of fossil fuel energy resources. Not more than \$40,000,000 of such aggregate amount shall be for the purchase, lease, or procurement of any product or service which involves research or exploration of fossil fuel

²¹ 12 U.S.C. 635d. The second and third sentences were added by Public Law 80-89 (61 Stat. 131). Public Law 82-158 (65 Stat. 637), further amended the section; Public Law 83-570 (68 Stat. 678), substituted a new debt limit of \$4,000,000; Public Law 85-425 (72 Stat. 133), raised that limit to \$6,000,000. The third sentence was revised by Sec. 7 of Public Law 93-646 (88 Stat. 2333 at 2336).

²² 12 U.S.C. 635e Public Law 82-158 (65 Stat. 367), raised the limit on the aggregate amount to $4\frac{1}{2}$ times the authorized capital stock of the bank. The words "and insurance" were added by Public Law 83-30 (67 Stat. 28). Public Law 83-570 (68 Stat. 578), raised the aggregate amount to \$5,000,000,000; Public Law 85-424 (72 Stat. 133) increased the amount to \$7,000,000,000; Public Law 88-101 (77 Stat. 128), increased the amount to \$9,000,000,000; Public Law 90-267 (82 Stat. 49), increased the amount to \$13,500,000,000; and Public Law 92-126 (85 Stat. 345), increased the amount to \$20,000,000,000; and Public Law 93-646 (88 Stat. 2333) increased the amount to \$25,000,000,000. Section 7(b) was added by Sec. 8 of Public Law 93-646.

energy resources. The President may establish a limitation in excess of \$300,000,000 if he determines that such higher limitation is in the national interest and if he reports such determination to the Congress together with the reasons therefor, including the amount of such proposed increase which would be available for the export of products and services for research, exploration, and production (including processing and distribution) of fossil fuel energy resources in the Union of Soviet Socialist Republics, and if, after the receipt of such report together with the reasons, the Congress adopts a concurrent resolution approving such determination.

Sec. 8.²³ The Export-Import Bank of the United States shall continue to exercise its functions in connection with and in furtherance of its objects and purposes until the close of business on September 30, 1978,²⁴ but the provisions of this section shall not be construed as preventing the Bank from acquiring obligations prior to such date which mature subsequent to such date or from assuming prior to such date liability as guarantor, endorser, or acceptor of obligations which mature subsequent to such date, or from issuing either prior or subsequent to such date, for purchase by the Secretary of the Treasury or any other purchasers, its notes, debentures, bonds, or other obligations which mature subsequent to such date or from continuing as a corporate agency of the United States and exercising any of its functions subsequent to such date for purposes of orderly liquidation, including the administration of its assets and the collection of any obligations held by the Bank.

Sec. 9. (a)²⁵ The Export-Import Bank of the United States shall transmit to the Congress annually a complete and detailed report of its operations. The report shall be as of the close of business on the last day of each fiscal year.

(b)²⁶ The report shall contain a description of actions taken by the Bank in pursuance of the policy of aiding, counseling, assisting, and protecting, insofar as is possible, the interests of small business concerns.

Sec. 10. Section 9 of the Act of January 31, 1935 (49 Stat. 4, ch. 2), as amended, is repealed.

Sec. 11.²⁷ Notwithstanding the provisions of section 955 of title 18, United States Code, any person, including any individual, partnership, corporation, or association, may act for or participate with the Export-Import Bank of the United States in any operation or transaction, or may acquire any obligation issued in connection with any operation or transaction, engaged in by the Bank.

²³ 12 U.S.C. 635f. As amended and restated by the Act of June 9, 1947 (61 Stat. 130) : the date was revised to "June 30, 1958" by Public Law 82-158 (65 Stat. 367) ; the date changed to "June 30, 1968" with Public Law 88-101 (77 Stat. 128), and to "June 30, 1973" with Public Law 90-267 (82 Stat. 49). Public Law 92-126 (85 Stat. 345) changed the date to "June 30, 1974" and added the words "or any other purchasers." The date was changed successively to "July 30," "September 30," "October 15, 1974," "November 15, 1974" and "June 30 1978" by Public Law 93-331 (88 Stat. 289), Public Law 93-374 (88 Stat. 445), Public Law 93-425 (88 Stat. 1166), Public Law 93-450 (88 Stat. 1368), and Public Law 93-646 (88 Stat. 2333), respectively.

²⁴ Section 4 of Public Law 95-143 (91 Stat. 1211) changed the date from June 30, 1978, to September 30, 1978.

²⁵ 12 U.S.C. 635g. Section 10 of Public Law 93-646 (88 Stat. 2333 at 2336) changed the reporting requirements from semiannual to annual to be completed as of the end of each fiscal year instead of June 30 and December 31 of each year.

²⁶ Subsection (b) was added by Sec. 10 of Public Law 93-646 (88 Stat. 2333 at 2337).

²⁷ 12 U.S.C. 635h. As amended and restated by Public Law 83-779 (68 Stat. 112). Public Law 90-267 changed the name of the bank to "Export-Import Bank of the United States."

Sec. 12.²⁸ The Export-Import Bank of the United States created hereby shall by virtue of this Act succeed to all of the rights and assume all of the liabilities of the Export-Import Bank of Washington, a District of Columbia corporation, and any outstanding capital stock of the District of Columbia corporation shall be deemed to have been issued by and shall be capital stock of the corporation created by this Act and all of the personnel, property, records, funds (including all unexpended balances of appropriations, allocations, or other funds now available), assets, contracts, obligations, and liabilities of the District of Columbia corporation are hereby transferred to, accepted, and assumed by the corporation created by this Act without the necessity of any act or acts on the part of the corporation created by this Act or of the District of Columbia corporation, their officers, employees, or agents or of any other department or agency of the United States to carry out the purposes hereof and it shall be unnecessary to take any further action to effect the dissolution or liquidation of Export-Import Bank of Washington, a District of Columbia corporation. The members of the Board of Directors of the District of Columbia corporation, appointed pursuant to the provisions of the Export-Import Bank Act of 1945, shall, during the unexpired portion of the terms for which they were appointed, continue in office as members of the Board of Directors of the corporation created by this Act.

²⁸ 12 U.S.C. 6351. Added by sec. 4 of Public Law 80-89 (61 Stat. 131).

2. Export Expansion

a. Public Law 90-390 [H.R. 16162], 82 Stat. 296,
approved July 7, 1968¹

AN ACT To enable the Export-Import Bank of the United States to approve extension of certain loans, guarantees, and insurance in connection with exports from the United States in order to improve the balance of payments and foster the long-term commercial interests of the United States.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Section 1. (a) It is the policy of the Congress that the Export-Import Bank of the United States should facilitate through loans, guarantees, and insurance (including coinsurance and reinsurance) those export transactions which, in the judgment of the Board of Directors of the Bank, offer sufficient likelihood of repayment to justify the Bank's support in order to actively foster the foreign trade and long-term commercial interest of the United States.

(b) The Bank shall specially designate loans, guarantees, and insurance on the books of the Bank made under authority of this Act. In connection with guarantees and insurance, not less than 25 per centum of the related contractual liability of the Bank shall be taken into account for the purpose of applying the limitation imposed by section 7 of the Export-Import Bank Act of 1945, as amended; but the full amount of the related contractual liability of such guarantees and insurance shall be taken into account for the purpose of applying the limitation in section 2(c) (1) of that Act, concerning the amount of guarantees and insurance the Bank may have outstanding at any one time thereunder. The aggregate amount of loans plus 25 per centum of the contractual liability of guarantees and insurance outstanding at any one time under this Act shall not exceed \$500,000,000.

(c) The Board of Directors of the Bank shall submit to the Congress for the calendar quarter ending September 30, 1968, and for each calendar quarter thereafter a report of all actions taken under authority of this Act during such quarter.

Sec. 2. In the event of any losses, as determined by the Board of Directors of the Bank, incurred on loans, guarantees, and insurance extended under this Act, the first \$100,000,000 of such losses shall be borne by the Bank; the second \$100,000,000 of such losses shall be borne by the Secretary of the Treasury; and any losses in excess thereof shall be borne by the Bank. Reimbursement of the Bank by the Secretary of the Treasury of the amount of losses which are to be borne by the Secretary of the Treasury as aforesaid shall be from funds made available pursuant to section 3 of this Act. All guarantees and insurance issued by the Bank shall be considered contingent obligations backed by the full faith and credit of the Government of the United States of America.

¹ 12 U.S.C. 635j-635n.

Sec. 3. There are hereby authorized to be appropriated to the Secretary of the Treasury without fiscal year limitation \$100,000,000 to cover the amount of any losses which are to be borne by the Secretary of the Treasury as provided in section 2 hereof.

Sec. 4. Nothing in this Act shall be construed as a limitation on the powers of the Bank under the Export-Import Bank Act of 1945, as amended; and except as to the standard of reasonable assurance of repayment required under section 2(b)(1) of that Act, all loans, guarantees, and insurance extended hereunder shall be subject to the provisions of said Export-Import Bank Act of 1945, as amended, and to the policies of the Bank with respect to terms of repayment, interest rates, fees, and premiums applicable to loans, guarantees, and insurance extended under that Act.

Sec. 5. The Bank shall not extend loans, guarantees, or insurance under this Act in connection with the sale of defense articles or defense services.

b. Executive Order 11420, July 31, 1968, 33 F.R. 10997, 3 CFR, 1966-70 Comp., p. 739

ESTABLISHING THE EXPORT EXPANSION ADVISORY COMMITTEE

Whereas foreign trade is an essential and continuing element in sustaining the growth, strength, and prosperity of our economy, contributes to the improvement of our balance of payments, and fosters the long-term commercial interest of the United States; and

Whereas, on March 20, 1968, I requested the Congress to empower the Export-Import Bank of the United States to use up to \$500,000,000 of its loan, guarantee, and insurance authority to finance a broadened program to sell American goods in foreign markets; and

Whereas the Congress has authorized the Bank to extend loans, guarantees, and insurance which, in the judgment of the Board of Directors of the Bank, offer sufficient likelihood of repayment to justify the Bank's support in order to actively foster the foreign trade and long-term commercial interest of the United States; and

Whereas it is desirable and appropriate that guidance concerning the commercial interests and the balance of payments objectives of the United States be provided to the Board of Directors of the Bank in the use of such loan, guarantee, and insurance authority allocated to finance export expansion, and I have stated that I would establish an Export Expansion Advisory Committee to provide such guidance to the Board of Directors of the Bank:

Now, therefore, by virtue of the authority vested in me as President of the United States, it is ordered as follows:

Section 1. Establishment of Advisory Committee. (a) There is hereby established the Export Expansion Advisory Committee (hereinafter referred to as "the Committee").

(b) The Committee shall be composed of the following members: the Secretary of Commerce, who shall be Chairman of the Committee, the Secretary of the Treasury, the Secretary of State, and the President and Chairman of the Board of the Export-Import Bank of the United States.

Sec. 2. Functions of the Committee. The Committee shall review and make recommendations concerning applications and proposals for loans, guarantees, and insurance to be charged against allocations made to finance export expansion and shall provide guidance to the Board of Directors of the Bank concerning the use of such allocations with the view to fostering the foreign trade and long-term commercial interest of the United States.

Sec. 3. Construction. Nothing in this order shall be construed to abrogate, modify, or restrict any function vested by law in, or assigned pursuant to law to, any Federal agency, or any officer thereof or to any Federal interagency council or committee. As used herein the term "any Federal agency" includes any executive department and any other executive agency.

3. Bretton Woods Agreements Act, as amended ¹

Public Law 79-171 [H.R. 3314], 59 Stat. 512, approved July 31, 1945, as amended by Public Law 80-472 [S. 2202], 62 Stat. 137, approved April 3, 1948; Public Law 81-142 [H.R. 4332], 63 Stat. 298, approved June 29, 1949; Public Law 82-165 [H.R. 5113], 65 Stat. 373, approved October 10, 1951; Reorganization Plan No. 7 of 1953, August 1, 1953, 18 F.R. 4541, 67 Stat. 639; Public Law 83-570 [S. 3589], 68 Stat. 677, approved August 9, 1954; Public Law 86-48 [S. 1094], 73 Stat. 80, approved June 17, 1959; Public Law 87-490 [H.R. 10162], 76 Stat. 105, approved June 19, 1962; Public Law 88-178 [H.R. 7405], 77 Stat. 334, approved November 13, 1963; Public Law 89-31 [H.R. 6497], 79 Stat. 119, approved June 2, 1965; Public Law 89-126 [S. 1742], 79 Stat. 519, approved August 14, 1965; Public Law 91-599 [H.R. 18306], 84 Stat. 1657, approved December 30, 1970; Public Law 93-94 [S. 1887], 87 Stat. 314, approved August 15, 1973; Public Law 94-564 [H.R. 13955], 90 Stat. 2660, approved October 19, 1976; and by Public Law 95-118 [H.R. 5262], 91 Stat. 1067, approved October 3, 1977

NOTE.—This Act was amended by sections 1, 2, 3, and 4 of Public Law 94-564. However, sections 2, 3, and 4 of such Act do not become effective until entry into force of the amendments to the Articles of Agreement of the International Monetary Fund approved in Resolution Numbered 31-4 of the Board of Governors of the Fund. Upon enactment of section 1 of Public Law 94-564 (October 19, 1976), the United States Governor of the Fund was authorized to accept the amendments to the Articles of Agreement. Formal acceptance by the United States occurred on November 15, 1976. However, at the publication date of this volume, these amendments had not yet entered into force. The changes in the Bretton Woods Agreements Act, as amended, which will be effective upon such entry into force are included as footnotes to the appropriate sections. In addition, the complete text of Public Law 94-564 may be found on page 212.

AN ACT To provide for the participation of the United States in the International Monetary Fund and the International Bank for Reconstruction and Development.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

Section 1. This Act may be cited as the "Bretton Woods Agreements Act."

ACCEPTANCE OF MEMBERSHIP

Sec. 2. The President is hereby authorized to accept membership for the United States in the International Monetary Fund (herein-

¹ 22 USC 286-286k-1.

after referred to as the "Fund"), and in the International Bank for Reconstruction and Development (hereinafter referred to as the "Bank"), provided for by the Articles of Agreement of the Fund and the Articles of Agreement of the Bank as set forth in the Final Act of the United Nations Monetary and Financial Conference dated July 22, 1944, and deposited in the archives of the Department of State.

APPOINTMENT OF GOVERNORS, EXECUTIVE DIRECTORS, AND ALTERNATES

Sec. 3.² (a) The President, by and with the advice and consent of the Senate, shall appoint a governor of the Fund who shall also serve as governor of the Bank, and an executive director of the Fund and an executive director of the Bank. The executive directors so appointed shall also serve as provisional executive directors of the Fund and the Bank for the purposes of the respective Articles of Agreement. The term of office for the governor of the Fund and of the Bank shall be five years. The term of office for the executive directors shall be two years, but the executive directors shall remain in office until their successors have been appointed.

(b) The President, by and with the advice and consent of the Senate, shall appoint an alternate for the governor of the Fund and an alternate for the governor of the Bank.³ The President, by and with the advice and consent of the Senate, shall appoint an alternate for each of the executive directors. The alternate for each executive director shall be appointed from among individuals recommended to the President by the executive director. The terms of office for alternates for the governor and the executive directors shall be the same as the terms specified in subsection (a) for the governor and executive directors.

(c) ⁴ No person shall be entitled to receive any salary or other compensation from the United States for services as a governor, executive director, or alternate.

² See sec. 3 of the International Finance Corporation Act, p. 218 of the text. See sec. 3 of the International Development Association Act, p. 231 of the text.

³ The words "and an alternate for the governor of the Bank" were substituted by Public Law 93-94 (87 Stat. 314), for the words "who shall also serve as alternate for the governor of the bank".

⁴ Sec. 2 of Public Law 94-564 provides that upon entry into force of the amendments to the Articles of Agreement to the IMF, subsection (c) will be amended to read as follows: "(c) Should the provisions of Schedule D of the Articles of Agreement of the Fund apply, the Governor of the Fund shall also serve as councillor, shall designate an alternate for the councillor, and may designate associates."

In addition, Sec. 2 also provides that a new subsection (d) shall be added which reads as follows:

"(d) No person shall be entitled to receive any salary or other compensation from the United States for services as a Governor, executive director, councillor, alternate, or associate."

NATIONAL ADVISORY COUNCIL ON INTERNATIONAL MONETARY AND
FINANCIAL PROBLEMS

Section 1(a) and 3(a) of Reorganization Plan No. 4 of 1965, effective July 27, 1965, 30 F.R. 9353, abolished the Council and functions, with the President acquiring the duties. Subsequently Executive Order 11269, as amended (on p. 860), re-established the National Advisory Council on International Monetary and Financial Policies under the executive branch.

The text of the reporting requirement of Chapter 3 of Public Law 91-599 (84 Stat. 1658), approved December 30, 1970, is observed in practice by the executive office. It reads as follows:

"§ 31. Annual report

"The National Advisory Council on International Monetary and Financial Policies shall include in its annual report to the Congress (1) a statement with respect to each loan approved and outstanding, made by the International Bank for Reconstruction and Development, the International Development Association, the Inter-American Development Bank, and the Asian Development Bank, including an evaluation of new loans made by said organization and a progress report of the project covered by each loan, and a discussion of how each loan will benefit the people of the recipient country, and (2) a statement on steps taken jointly and individually by member countries of the Inter-American Development Bank to restrain their military expenditures, and to preserve and strengthen free and democratic institutions."

Sec. 4.⁵ (a) In order to coordinate the policies and operations of the representatives of the United States on the Fund and the Bank and of all agencies of the Government which make or participate in making foreign loans or which engage in foreign financial, exchange or monetary transactions, there is hereby established the National Advisory Council on International Monetary and Financial Problems (hereinafter referred to as the "Council"), consisting of the Secretary of the Treasury, as Chairman, the Secretary of State, the Secretary of Commerce, the Chairman of the Board of Governors of the Federal Reserve System,⁶ the President of the Export-Import Bank of Wash-

⁵ See section 4 of the International Finance Corporation Act, p. 218 of text. Also consult p. 231 for section 4 of the International Development Association Act and p. 222 for section 4 of the Inter-American Development Bank Act.

For revisions of functions and status of the Council, see Reorganization Plan No. 4 of 1965 (sec. 16, sec. 3(a) and sec. 3(b)), as well as Executive Order 11269 on p. 216 of the text.

Consult with Executive Order 11264 (Vol. I, p. 600), on the Board of the Foreign Service and the Board of Examiners of the Foreign Service and Executive Order 11636 (Vol. I, p. 591), on Employee-Management Relations in the Foreign Service of the United States.

⁶ The material following " * * * Federal Reserve System," read as follows in the original act: "and the Chairman of the Board of Trustees of the Export-Import Bank of Washington." Subsection 4(a) has been amended by the following:

(1) The Economic Corporation Act of 1948, approved Apr. 3, 1948 (62 Stat. 141), sec. 106 of which amended subsec. 4(a) so as to include the Administrator for Economic Cooperation "during such period as the Economic Cooperation Administration shall continue to exist".

(2) The Mutual Security Act of 1951, approved Oct. 10, 1951 (65 Stat. 378), sec. 501(e)(2) of which amended subsec. 4(a), by substituting the Mutual Security Agency

ington, and during such period as the Foreign Operations Administration shall continue to exist, the Director of the Foreign Operations Administration.

(b) (1) The Council, after consultation with the representatives of the United States on the Fund and the Bank, shall recommend to the President general policy directives for the guidance of the representatives of the United States on the Fund and the Bank.

(2) The Council shall advise and consult with the President and the representatives of the United States on the Fund and the Bank on major problems arising in the administration of the Fund and the Bank.

(3) The Council shall coordinate, by consultation or otherwise, so far as is practicable, the policies and operations of the representatives of the United States on the Fund and the Bank, the Export-Import Bank of Washington and all other agencies of the Government to the extent that they make or participate in the making of foreign loans or engage in foreign, financial, exchange or monetary transactions.

(4) Whenever, under the Articles of Agreement of the Fund or the Articles of Agreement of the Bank, the approval, consent or agreement of the United States is required before an act may be done by the respective institutions, the decision as to whether such approval, consent, or agreement, shall be given or refused shall (to the extent such decision is not prohibited by section 5 of this Act) be made by the Council, under the general direction of the President. No governor, executive director, or alternate representing the United States shall vote in favor of any waiver of condition under article V, section 4, or in favor of any declaration of the United States dollar as a scarce currency under article VII, section 3, of the Articles of Agreement of the Fund, without prior approval of the Council.

(5)⁷ The Council shall transmit to the President and to the Congress an annual report with respect to the participation of the United States in the Fund and Bank.

(6)⁷ Each such report shall contain such data concerning the operations and policies of the Fund and Bank, such recommendations concerning the Fund and Bank, and such other data and material as the Council may deem appropriate.

(7) The Council shall make such reports and recommendations to the President as he may from time to time request, or as the Council

(Continued)

and the Director for Mutual Security for the Economic Cooperation Administration and the Administrator for Economic Cooperation respectively;

(3) Reorganization Plan No. 5 of 1953, effective June 30, 1953 (67 Stat. 637), sec. 7 of which abolished the function of the Chairman of the Board of Directors of the Export-Import Bank of Washington of being a member of the National Advisory Council;

(4) Reorganization Plan No. 7 of 1953, effective Aug. 1, 1953 (67 Stat. 640), sec. 4 of which provided that the Director of the Foreign Operations Administration should be a member of the National Advisory Council;

(5) Public Law 83-570, approved Aug. 9, 1954 (68 Stat. 677, 678), sec. 2 of which inserted the part of the text quoted above following " * * * the Federal Reserve System."

Executive Order 10610, 20 F.R. 3179, effective July 1, 1955, abolished the Foreign Operations Administration and the Office of Director of the Foreign Operations Administration, and the membership of the Director of the Foreign Operations Administration on the National Advisory Council thereby expired by operation of law effective on that date.

⁷ As amended by sec. 1(1) of Public Law 89-126, approved August 14, 1965 (79 Stat. 519; 22 U.S.C. 286b). See sec. 15(b) as added June 29, 1949 by sec. 2, 63 Stat. 298. 22 U.S.C. 286k-1, which reads in part:

"The reports of the National Advisory Council provided for in section 4(a)(6) of the Bretton Woods Agreements Act * * *". The original text probably should have read "section 4(b)(6)". 22 U.S.C. 286b(b)(6).

may consider necessary to more effectively or efficiently accomplish the purposes of this Act or the purposes for which the Council is created.

(c) The representatives of the United States on the Fund and the Bank, and the Export-Import Bank of Washington (and all other agencies of the Government to the extent that they make or participate in the making of foreign loans or engage in foreign financial, exchange or monetary transactions) shall keep the Council fully informed of their activities and shall provide the Council with such further information or data in their possession as the Council may deem necessary to the appropriate discharge of its responsibilities under this Act.

CERTAIN ACTS NOT TO BE TAKEN WITHOUT AUTHORIZATION

Sec. 5.⁸ Unless Congress by law authorizes such action, neither the President nor any person or agency shall on behalf of the United States (a) request or consent to any change in the quota of the United States under article III, section 2, of the Articles of Agreement of the Fund; (b) propose or agree to any change in the par value of the United States dollar under article IV, section 5, or article XX, section 4, of the Articles of Agreement of the Fund, or approve any general change in par values under article IV, section 7;⁹ (c) subscribe to additional shares of stock under article II, section 3, of the Articles of Agreement of the Bank; (d) accept any amendment under article XVII of the Articles of Agreement of the Fund or article VIII of the Articles of Agreement of the Bank; (e) make any loan to the Fund or the Bank.¹⁰ Unless Congress by law authorizes such action, no governor or alternate appointed to represent the United States shall vote for an increase of capital stock of the Bank under article II, section 2, of the Articles of Agreement of the Bank, if such increase involves an increased subscription on the part of the United States.

DEPOSITORIES

Sec. 6. Any Federal Reserve bank which is requested to do so by the Fund or the Bank shall act as its depository or as its fiscal agent, and the Board of Governors of the Federal Reserve System shall

⁸ 22 U.S.C. 286c, as amended by sec. 1(2) of Public Law 89-126, August 14, 1965 (79 Stat. 519), by adding at the end of sec. 5 the following: "If such increase involves an increased subscription on the part of the United States."

⁹ Pursuant to Public Law 92-268, 86 Stat. 116, March 31, 1972, the Secretary of the Treasury notified the International Monetary Fund of a change in the par value of the United States dollar from one thirty-fifth of a fine troy ounce of gold to one thirty-eighth of a fine troy ounce of gold, effective May 8, 1972.

¹⁰ Sec. 3 of Public Law 94-564 provides that upon entry into force of the amendments to the Articles of Agreement of the IMF, the first sentence of Sec. 5 shall read as follows:

"Unless Congress by law authorizes such action, neither the President nor any person or agency shall on behalf of the United States (a) request or consent to any change in the quota of the United States under article III, section 2(a), of the Articles of Agreement of the Fund; (b) propose a par value for the United States dollar under paragraph 2, paragraph 4, or paragraph 10 of schedule C of the Articles of Agreement of the Fund; (c) propose any change in the par value of the United States dollar under paragraph 6 of schedule C of the Articles of Agreement of the Fund, or approve any general change in par values under paragraph 11 of schedule C; (d) subscribe to additional shares of stock under article II, section 3, of the Articles of Agreement of the Bank; (e) except any amendment under article XXVIII of the Articles of Agreement of the Fund or article VIII of the Articles of Agreement of the Bank; (f) make any loan to the Fund or the Bank; (g) approve the establishment of any additional trust fund, for the special benefit of a single member, or of a particular segment of the membership, of the Fund."

supervise and direct the carrying out of these functions by the Federal Reserve banks.

PAYMENT OF SUBSCRIPTIONS

Sec. 7. (a) Subsection (c) of section 10 of the Gold Reserve Act of 1934, as amended (U.S.C., title 31, sec. 822a), is amended to read as follows:

"(c) The Secretary of the Treasury is directed to use \$1,800,000,000 of the fund established in this section to pay part of the subscription of the United States to the International Monetary Fund; and any repayment thereof shall be covered into the Treasury as a miscellaneous receipt."

(b)¹¹ The Secretary of the Treasury is authorized to pay the balance of the subscription of the United States to the Fund not provided for in subsection (a) and to pay the subscription of the United States to the Bank from time to time when payments are required to be made to the Bank. For the purpose of making these payments, the Secretary of the Treasury is authorized to use as a public-debt transaction \$8,675,000,000 of the proceeds of any securities hereafter issued under the Second Liberty Bond Act, as amended, and the purposes for which securities may be issued under that Act are extended to include such purpose. Payment under this subsection of the subscription of the United States to the Fund or the Bank and repayments thereof shall be treated as public-debt transactions of the United States.

(c) For the purpose of keeping to a minimum the cost to the United States of participation in the Fund and the Bank, the Secretary of the Treasury, after paying the subscription of the United States to the Fund, and any part of the subscription of the United States to the Bank required to be made under article II, section 7(i), of the Articles of Agreement of the Bank, is authorized and directed to issue special notes of the United States from time to time at par and to deliver such notes to the Fund and the Bank in exchange for dollars to the extent permitted by the respective Articles of Agreement. The special notes provided for in this subsection shall be issued under the authority and subject to the provisions of the Second Liberty Bond Act, as amended, and the purposes for which securities may be issued under that Act are extended to include the purposes for which special notes are authorized and directed to be issued under the subsection, but such notes shall bear no interest, shall be non-negotiable, and shall be payable on demand of the Fund or the Bank, as the case may be. The face amount of special notes issued to the Fund under the authority of this subsection and outstanding at any one time shall not exceed in the aggregate the amount of the subscription of the United States actually paid to the Fund and the dollar equivalent of currencies and in accordance with Articles of Agreement,¹² and the face amount gold which the United States shall have purchased from the Fund of such notes issued to the Bank and outstanding at any one time shall not exceed in the aggregate the amount of the subscription of the

¹¹ Section 2 of Public Law 86-48 (73 Stat. 80), struck out the words "of \$950,000,000" and substituted "\$8,675,000,000" for the number "\$4,125,000,000".

¹² The words beginning at "and" and ending at "Agreement" were added by sec. 2 of Public Law 87-490, June 19, 1962 (76 Stat. 105).

United States actually paid to the Bank under article II, section 7(i), of the Articles of Agreement of the Bank.

(d) Any payment made to the United States by the Fund or the Bank as a distribution of net income shall be covered into the Treasury as a miscellaneous receipt.

OBTAINING AND FURNISHING INFORMATION

Sec. 8.¹³ (a) Whenever a request is made by the Fund to the United States as a member to furnish data under article VIII, section 5, of the Articles of Agreement of the Fund, the President may, through any agency he may designate, require any person to furnish such information as the President may determine to be essential to comply with such request. In making such determination the President shall seek to collect the information only in such detail as is necessary to comply with the request of the Fund. No information so acquired shall be furnished to the Fund in such detail that the affairs of any person are disclosed.

(b) In the event any person refuses to furnish such information when requested to do so, the President, through any designated governmental agency, may by subpoena require such person to appear and testify or to appear and produce records and other documents, or both. In case of contumacy by, or refusal to obey a subpoena served upon any such person, the district court for any district in which such person is found or resides or transacts business, upon application by the President or any governmental agency designated by him, shall have jurisdiction to issue an order requiring such person to appear and give testimony or appear and produce records and documents, or both; and any failure to obey such order of the court may be punished by such court as a contempt thereof.

(c) It shall be unlawful for any officer or employee of the Government, or for any adviser or consultant to the Government, to disclose, otherwise than in the course of official duty, any information obtained under this section, or to use any such information for his personal benefit. Whoever violates any of the provisions of this subsection shall, upon conviction, be fined not more than, \$5,000, or imprisoned for not more than five years, or both.

(d) The term "person" as used in this section means an individual, partnership, corporation or association.

FINANCIAL TRANSACTIONS WITH FOREIGN GOVERNMENTS IN DEFAULT

Sec. 9. The Act entitled "An Act to prohibit financial transactions with any foreign government in default of its obligations to the United States", approved April 13, 1934 (U.S.C., title 31, sec. 804a), is amended by adding at the end thereof a new section to read as follows:

"SEC. 3. While any foreign government is a member both of the International Monetary Fund and of the International Bank for Reconstruction and Development, this Act shall not apply to the sale or purchase of bonds, securities, or other obligations of such govern-

¹³ 22 U.S.C. 236f.

ment or any political subdivision thereof or of any organization or association acting for or on behalf of such government or political subdivision, or to the making of any loan to such government, political subdivision, organization, or association."

JURISDICTION AND VENUE OF ACTIONS

Sec. 10. For the purpose of any action which may be brought within the United States or its Territories or possessions by or against the Fund or the Bank in accordance with the Articles of Agreement of the Fund or the Articles of Agreement of the Bank, the Fund or the Bank, as the case may be, shall be deemed to be an inhabitant of the Federal judicial district in which its principal office in the United States is located, and any such action at law or in equity to which either the Fund or the Bank shall be a party shall be deemed to arise under the laws of the United States, and the district courts of the United States shall have original jurisdiction of any such action. When either the Fund or the Bank is a defendant in any such action, it may, at any time before the trial thereof, remove such action from a State court into the district court of the United States for the proper district by following the procedure for removal of causes otherwise provided by law.

STATUS, IMMUNITIES AND PRIVILEGES

Sec. 11. The provisions of article IX, sections 2 to 9, both inclusive, and the first sentence of article VIII, section 2(b), of the Articles of Agreement of the Fund, and the provisions of article VI, section 5(i), and article VII, sections 2 to 9, both inclusive, of the Articles of Agreement of the Bank, shall have full force and effect in the United States and its Territories and possessions upon acceptance of membership by the United States in, and the establishment of, the Fund and the Bank, respectively.

STABILIZATION LOANS BY THE BANK

Sec. 12. The governor and executive director of the Bank appointed by the United States are hereby directed to obtain promptly an official interpretation by the Bank as to its authority to make or guarantee loans for programs of economic reconstruction and the reconstruction of monetary systems, including long-term stabilization loans. If the Bank does not interpret its powers to include the making or guaranteeing of such loans, the governor of the Bank representing the United States is hereby directed to propose promptly and support an amendment to the Articles of Agreement for the purpose of explicitly authorizing the Bank, after consultation with the Fund, to make or guarantee such loans. The President is hereby authorized and directed to accept an amendment to that effect on behalf of the United States.

STABILIZATION OPERATIONS BY THE FUND

Sec. 13. (a) The governor and executive director of the Fund appointed by the United States are hereby directed to obtain

promptly an official interpretation by the Fund as to whether its authority to use its resources extends beyond current monetary stabilization operations to afford temporary assistance to members in connection with seasonal, cyclical, and emergency fluctuations in the balance of payments of any member for current transactions, and whether it has authority to use its resources to provide facilities for relief, reconstruction, or armaments, or to meet a large or sustained outflow of capital on the part of any member.

(b) If the interpretation by the Fund answers in the affirmative any of the questions stated in subsection (a), the governor of the Fund representing the United States is hereby directed to propose promptly and support an amendment to the Articles of Agreement for the purpose of expressly negating such interpretation. The President is hereby authorized and directed to accept an amendment to that effect on behalf of the United States.

FURTHER PROMOTION OF INTERNATIONAL ECONOMIC RELATIONS

Sec. 14. In the realization that additional measures of international economic cooperation are necessary to facilitate the expansion and balanced growth of international trade and render most effective the operations of the Fund and the Bank, it is hereby declared to be the policy of the United States to seek to bring about further agreement and cooperation among nations and international bodies, as soon as possible, on ways and means which will best reduce obstacles to and restrictions upon international trade, eliminate unfair trade practices, promote mutually advantageous commercial relations, and otherwise facilitate the expansion and balanced growth of international trade and promote the stability of international economic relations. In considering the policies of the United States in foreign lending and the policies of the Fund and the Bank, particularly in conducting exchange transactions, the Council and the United States representatives on the Fund and the Bank shall give careful consideration to the progress which has been made in achieving such agreement and cooperation.

Sec. 15.¹⁴ (a) Any securities issued by International Bank for Reconstruction and Development (including any guaranty by the Bank,

¹⁴ 22 U.S.C. 286k-1. Sec. 15 added by sec. 2 of Public Law 81-142, June 29, 1949 (63 Stat. 298-299). Sec. 1 of this law provides as follows:

"That paragraph Seventh of section 8 of the National Bank Act, as amended (U.S.C., title 12, sec. 22), is amended by adding to the end thereof the following new sentence: 'The limitations and restrictions herein contained as to dealing in and underwriting investment securities shall not apply to obligations issued by the International Bank for Reconstruction and Development which are at the time eligible for purchase by a national bank for its own account: *Provided*, That no association shall hold obligations issued by said bank as a result of underwriting, dealing, or purchasing for its own account (and for this purpose obligations as to which it is under commitment shall be deemed to be held by it) in a total amount exceeding at any one time 10 per centum of its capital stock actually paid in and unimpaired and 10 per centum of its unimpaired surplus fund.'"

Sec. 3 of this law, provides as follows:

"**SUSPENSION OF RIGHT OF INTERNATIONAL BANK TO ISSUE SECURITIES UNDER SECTION 286 K-1: REPORT OF SECURITIES AND EXCHANGE COMMISSION [22 U.S.C. 286k-2. Heading inserted by United States Code.]**

"**Sec. 3.** The Securities and Exchange Commission acting in consultation with the National Advisory Council on International Monetary and Financial Problems is authorized to suspend the provisions of section 15(a) of the Bretton Woods Agreements Act at any time as to any or all securities issued or guaranteed by the Bank the period of such suspension. The Commission shall include in its annual reports to Congress such information as it shall deem advisable with regard to the operations and effect of this Act and in connection therewith shall include any views submitted for such purpose by any association of dealers registered with the Commission."

whether or not limited in scope), and any securities guaranteed by the Bank as to both principal and interest, shall be deemed to be exempted securities within the meaning of paragraph (A)(2) of section 3 of the Act of May 27, 1933, as amended (U.S.C., title 15, sec. 77c), and paragraph (a) (12) of section 3 of the Act of June 6, 1934, as amended (U.S.C., title 15, sec. 78c). The Bank shall file with the Securities and Exchange Commission such annual and other reports with regard to such securities as the Commission shall determine to be appropriate in view of the special character of the Bank and its operations and necessary in the public interest for the protection of investors.

(b) The reports of the National Advisory Council provided for in section 4(a) (6)¹⁵ of the Bretton Woods Agreements Act shall also cover and include the effectiveness of the provisions of section 15(a) of this Act and the exemption for securities issued by the Bank provided by Section 8 of the National Bank Act in facilitating the operations of the Bank and the extent to which the operations of the Bank may assist in financing European recovery and the reconstruction and development of the economic resources of member countries of the Bank and the recommendations of the Council as to any modifications if may deem desirable in the provisions of this Act.

Sec. 16.¹⁶ (a) The United States Governor of the Fund is authorized to request and consent to an increase of \$1,375,000,000 in the quota of the United States under article III, section 2, of the articles of agreement of the Fund as proposed in the resolution of the Board of Governors of the Fund dated February 2, 1959.

(b) The United States Governor of the Bank is authorized (1) to vote for increases in the capital stock of the Bank under article II, section 2, of the Articles of Agreement of the Bank, as recommended in the resolution of the Board of Governors of the Bank dated February 2, 1959, and (2) if such increases become effective, to subscribe on behalf of the United States to thirty-one thousand seven hundred and fifty additional shares of stock under article II, section 3, of the Articles of Agreement of the Bank.

Sec. 17.¹⁷ (a) In order to carry out the purposes of the decision of January 5, 1962, of the Executive Directors of the International Monetary Fund, the Secretary of the Treasury is authorized to make loans, not to exceed \$2,000,000,000 outstanding at any one time, to the Fund under article VII, section 2(i), of the Articles of Agreement of the Fund.¹⁸ Any loan under the authority granted in this subsection shall be made with due regard to the present and prospective balance of payments and reserve position of the United States.

(b) For the purpose of making loans to the International Monetary Fund pursuant to this section, there is hereby authorized to be appropriated \$2,000,000,000, to remain available until expended to meet calls by the International Monetary Fund. Any payments made

¹⁵ This should probably have read "section 4(b) (6)." See footnote 7 on page 198.

¹⁶ Added by Sec. 1 of Public Law 86-48, June 17, 1959 (73 Stat. 80).

¹⁷ Added by Public Law 87-490, June 19, 1962 (76 Stat. 105).

¹⁸ Sec. 4 of Public Law 94-564 provides that upon entry into force of the amendments to the Articles of Agreement of the IMF, the first sentence of Sec. 17(a) shall read as follows:

"In order to carry out the purposes of the decision of January 5, 1962, of the Executive Directors of the International Monetary Fund, the Secretary of the Treasury is authorized to make loans, not to exceed \$2,000,000,000 outstanding at any one time, to the Fund under article VII, section 1(i), of the Articles of Agreement of the Fund."

to the United States by the International Monetary Funds as a repayment on account of the principal of a loan made under this section shall continue to be available for loans to the International Monetary Fund.

(c) Payments of interest and charges to the United States on account of any loan to the International Monetary Fund shall be covered into the Treasury as miscellaneous receipts. In addition to the amount authorized in subsection (b), there is hereby authorized to be appropriated such amounts as may be necessary for the payment of charges in connection with any purchases of currencies or gold by the United States from the International Monetary Fund.

Sec. 18.¹⁷ Any purchases of currencies or gold by the United States from the International Monetary Fund may be transferred to and administered by the fund established by section 10 of the Gold Reserve Act of 1934, as amended (31 U.S.C. 822a), for use in accordance with the provisions of that section. The Secretary of the Treasury is authorized to utilize the resources of that fund for the purpose of any repayments in connection with such transactions.

Sec. 19.¹⁹ The United States Governor of the Bank is authorized to vote for an increase of \$1,000,000,000 in the authorized capital stock of the Bank under Article II, section 2, of the articles of agreement of the Bank, as recommended in the report, dated November 6, 1962, to the Board of Governors of the Bank by the Bank's Executive Directors.

Sec. 20.²⁰ (a) The United States Governor of the Fund is authorized to consent to an increase of \$1,035,000,000 in the quota of the United States in the Fund.

(b) In order to pay the increase in the United States subscription to the Fund provided for in this section, there is hereby authorized to be appropriated \$1,035,000,000, to remain available until expended.

Sec. 21.²¹ The United States Governor of the Bank is authorized to agree to an amendment to the articles of agreement of the Bank to permit the Bank to make, participate in, or guarantee loans to the International Finance Corporation for use in the lending operations of the latter.

Sec. 22.²² (a) The United States Governor of the Fund is authorized to consent to an increase of \$1,540,000,000 in the quota of the United States in the Fund.

(b) In order to pay the increase in the United States quota in the Fund provided for in this section, there is hereby authorized to be appropriated \$1,540,000,000, to remain available until expended.

Sec. 23.²² (a) The United States Governor of the Bank is authorized (1) to vote for an increase of \$3,000,000,000 in the authorized capital stock of the Bank, and (2) if such increase becomes effective, to subscribe on behalf of the United States to two thousand four hundred and sixty-one additional shares of the capital stock of the Bank.

(b) In order to pay for the increase in the United States subscription to the Bank provided for in this section, there is hereby authorized to be appropriated \$246,100,000 to remain available until expended.

¹⁹ Added by Public Law 88-178, 77 Stat. 334, approved November 13, 1963.

²⁰ Added by Public Law 89-31, 79 Stat. 119, approved June 2, 1965.

²¹ Added by Public Law 89-126, 79 Stat. 519, approved August 14, 1965.

²² Added by Public Law 91-599, 84 Stat. 1657, approved December 30, 1970.

Sec. 24.²³ The United States Governor of the Fund is authorized to accept the amendments to the Articles of Agreement of the Fund approved in resolution numbered 31-4 of the Board of Governors of the Fund.

Sec. 25.²³ The United States Governor of the Fund is authorized to consent to an increase in the quota of the United States in the Fund equivalent to 1,705 million Special Drawing Rights.

Sec. 26.²³ The United States Governor of the Fund is directed to vote against the establishment of a Council authorized under Article XII, Section 1 of the Fund Articles of Agreement as amended, if under any circumstances the United States' vote in the Council would be less than its weighted vote in the Fund.

Sec. 27.²⁴ (a) The United States Governor of the Bank is authorized—

(1) to vote for an increase of seventy thousand shares in the authorized capital stock of the Bank; and

(2) if such increase becomes effective, to subscribe on behalf of the United States to thirteen thousand and five additional shares of the capital stock of the Bank: *Provided, however,* That any subscription to additional shares shall be made only after the amount required for such subscription has been appropriated.

(b) In order to pay for the increase in the United States subscription to the Bank provided for in this section, there are hereby authorized to be appropriated, without fiscal year limitation, \$1,568,856,318 for payment by the Secretary of the Treasury.²⁵

²³ Sections 24, 25, and 26 were added by Sec. 1 of Public Law 94-564, 90 Stat. 2660, approved October 19, 1976.

²⁴ Sec. 27 was added by Sec. 201 of Public Law 95-118 (91 Stat. 1067).

²⁵ The Foreign Assistance Appropriations Act, 1978 states:

"For payment to the International Bank for Reconstruction and Development by the Secretary of the Treasury for the first installment of the United States share of the increase in subscriptions to the (1) paid-in capital stock, and (2) callable capital stock, \$400,000,000, to remain available until expended: *Provided*, That no such payment may be made while the United States Executive Director to the Bank is compensated by the Bank at a rate in excess of the rate provided for an individual occupying a position at level IV of the Executive Schedule under section 5315 of title 5, United States Code, or while the alternate United States Executive Director to the Bank is compensated by the Bank at a rate in excess of the rate provided for an individual occupying a position at level V of the Executive Schedule under section 5316 of title 5, United States Code."

However, Sec. 508 of the same Act reduced the \$400,000,000 figure to \$280,000,000. This decrease in the appropriation was due to a 5% reduction of budget authority level for the Bank.

That Act also expresses the sense of the Senate that the U.S. share of contributions to future replenishments of the Bank should not exceed 18.7% for paid-in capital or callable capital.

4. Special Drawing Rights Act, as amended

Public Law 90-349, [H.R. 16911], 82 Stat. 188, approved June 19, 1968 as amended by Public Law 91-599 [H.R. 18306], 84 Stat. 1657, approved December 30, 1970

AN ACT To provide for United States participation in the facility based on Special Drawing Rights in the International Monetary Fund, and for other purposes.

NOTE.—This Act was amended by section 5 of Public Law 94-564. However, section 5 of such Act does not become effective until entry into force of the amendments to the Articles of Agreement of the International Monetary Fund approved in Resolution Numbered 31-4 of the Board of Governors of the Fund. Upon enactment of section 1 of Public Law 94-564 (October 19, 1976), the United States Governor of the Fund was authorized to accept the amendments to the Articles of Agreement. Formal acceptance by the United States occurred on November 15, 1976. However, at the publication date of this volume, these amendments had not yet entered into force. The changes in the Special Drawing Rights Act, as amended, which will be effective upon such entry into force are included as footnotes to the appropriate sections. In addition, the complete text of Public Law 94-564 may be found on page 212.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Special Drawing Rights Act."

Sec. 2.¹ The President is hereby authorized (a) to accept the amendment to the articles of agreement of the International Monetary Fund (hereinafter referred to as the "Fund"), attached to the April 1968 report by the Executive Directors to the Board of Governors of the Fund, for the purpose of (i) establishing a facility based on Special Drawing Rights in the Fund and (ii) giving effect to certain modifications in the present rules and practices of the Fund, and (b) to participate in the special drawing account established by the amendment.

Sec. 3.² (a) Special Drawing Rights allocated to the United States pursuant to article XXIV³ of the Articles of Agreement of the Fund, and Special Drawing Rights otherwise acquired by the United States, shall be credited to the account of, and administered as part of, the Exchange Stabilization Fund established by section 10 of the Gold Reserve Act of 1934, as amended (31 U.S.C. 822a).

¹ 22 USC 286n.

² 22 U.S.C. 286o.

³ Sec. 5 of Public Law 94-564 provides that upon entry into force of amendments to the Articles of Agreement of the IMF, Sec. 3 shall be amended by substituting "XVIII", "XX", "XXIV", and "XXV" in lieu of "XXIV", "XXVI", "XXX", and "XXXI", respectively, each time they appear.

(b) The proceeds resulting from the use of Special Drawing Rights by the United States, and payments of interest to the United States Articles of Agreement of the Fund, shall be deposited in the Exchange Stabilization Fund. Currency payments by the United States in return for Special Drawing Rights, and payments of charges or assessments pursuant to article XXVI,³ article XXX, and article XXXI of the Articles of Agreement of the Fund, shall be made from the resources of the Exchange Stabilization Fund.

Sec. 4.⁴ (a) The Secretary of the Treasury is authorized to issue to the Federal Reserve banks, and such banks shall purchase, Special Drawing Right certificates in such form and in such denominations as he may determine, against any Special Drawing Rights held to the credit of the Exchange Stabilization Fund. Such certificates shall be issued and remain outstanding only for the purpose of financing the acquisition of Special Drawing Rights or for financing exchange stabilization operations. The amount of Special Drawing Right certificates issued and outstanding shall at no time exceed the value of the Special Drawing Rights held against the Special Drawing Right certificates. The proceeds resulting from the issuance of Special Drawing Right certificates shall be covered into the Exchange Stabilization Fund.

(b) Special Drawing Right certificates owned by the Federal Reserve banks shall be redeemed from the resources of the Exchange Stabilization Fund at such times and in such amounts as the Secretary of the Treasury may determine.

Sec. 5. (a) The third sentence of the second paragraph of section 16 of the Federal Reserve Act, as amended (12 U.S.C. 412), is amended by inserting "or Special Drawing Right certificates," after "gold certificates,".

(b) The first sentence of the fifth paragraph of section 16 of the Federal Reserve Act, as amended (12 U.S.C. 415), is amended by inserting "Special Drawing Right certificates," after "gold certificates,".

(c) The seventh paragraph of section 16 of the Federal Reserve Act, as amended (12 U.S.C. 417), is amended by (i) inserting ", Special Drawing Right certificates," after "gold certificates" in the first sentence; (ii) inserting "Special Drawing Right certificates," after "gold certificates," in the second sentence; and (iii) inserting "and Special Drawing Right certificates" after "gold certificates" in the third sentence.

(d) The fifteenth paragraph of section 16 of the Federal Reserve Act, as amended (12 U.S.C. 467), is amended by inserting (i) "or of Special Drawing Right certificates" after "gold certificates" in the first sentence, and (ii) by striking the third sentence and inserting in lieu thereof "Deposits so made shall be held subject to the orders of the Board of Governors of the Federal Reserve System and deposits of gold or gold certificates shall be payable in gold certificates, and deposits of Special Drawing Right certificates shall be payable in Special Drawing Right certificates, on the order of the Board of Governors of the Federal Reserve System to any Federal Reserve bank or Federal Reserve agent at the Treasury or at the subtreasury of the United States nearest the place of business of such Federal Reserve bank or such Federal Reserve agent."

⁴ 22 U.S.C. 286p.

Sec. 6.⁵ Unless Congress by law authorizes such action, neither the President nor any person or agency shall on behalf of the United States vote to allocate in each basic period Special Drawing Rights under article XXIV,⁶ sections 2 and 3, of the Articles of Agreement of the Fund so that allocations to the United States in that period exceed an amount equal to the United States quota in the Fund as authorized under the Bretton Woods Agreements Act.

Sec. 7.⁷ The provisions of article XXVII(b)⁶ of the Articles of Agreement of the Fund shall have full force and effect in the United States and its territories and possessions when the United States becomes a participant in the special drawing account.

⁵ 22 U.S.C. 286g. As amended and restated by sec. 2 of Public Law 91-599, 84 Stat. 1657, approved Dec. 30, 1970.

⁶ Sec. 5 of Public Law 94-564 provides that upon entry into force of amendments to the Articles of Agreement of the IMF, Sections 6 and 7 shall be amended by substituting "XVIII" and "XXI(b)" in lieu of "XXIV" and "XXVII(b)", respectively.

⁷ 22 U.S.C. 286r.

5. Par Value Modification Act, as amended

Public Law 92-268 [S. 3160], 86 Stat. 116, approved March 31, 1972, as amended by Public Law 93-110 [H.R. 6912], 87 Stat. 352, approved September 21, 1973

AN ACT To provide for a modification in the par value of the dollar, and for other purposes.

NOTE.—This Act was amended by section 6 of Public Law 94-564. However, section 6 of such Act does not become effective until entry into force of the amendments to the Articles of Agreement of the International Monetary Fund approved in Resolution Numbered 31-4 of the Board of Governors of the Fund. Upon enactment of section 1 of Public Law 94-564 (October 19, 1976), the United States Governor of the Fund was authorized to accept the amendments to the Articles of Agreement. Formal acceptance by the United States occurred on November 15, 1976. However, at the publication date of this volume, these amendments had not yet entered into force. The changes in the Par Value Modification Act, as amended, which will be effective upon such entry into force are included as footnotes to the appropriate section. In addition, the complete text of Public Law 94-564 may be found on page 212.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled.

Section 1. This Act may be cited as the "Par Value Modification Act".

Sec. 2.¹ The Secretary of the Treasury is hereby authorized and directed to take the steps necessary to establish a new par value of the dollar of \$1 equals 0.828948 Special Drawing Right or, the equivalent in terms of gold, of forty-two and two-ninths dollars per fine troy ounce of gold.² When established such par value shall be the legal standard for defining the relationship of the dollar to gold for the purpose of issuing gold certificates pursuant to section 14(c) of the Gold Reserve Act of 1934 (31 U.S.C. 405b).

Sec. 3. The Secretary of the Treasury is authorized and directed to maintain the value in terms of gold of the holdings of United States dollars of the International Monetary Fund, the International Bank for Reconstruction and Development, the Inter-American Development Bank, the International Development Association, and the Asian

¹ Sec. 6 of Public Law 94-564 provides that upon entry into force of the amendments to Articles of Agreement of the IMF, Sec. 2 shall be repealed.

² Public Law 93-110 deleted the words "one thirty-eighth of a fine troy ounce of gold" and inserted in lieu thereof the following: "0.828948 Special Drawing Right or, the equivalent in terms of gold, of forty-two and two-ninths dollars per fine troy ounce of gold."

Development Bank to the extent provided in the articles of agreement of such institutions. There is hereby authorized to be appropriated, to remain available until expended, such amounts as may be necessary to provide for such maintenance of value.

Sec. 4. The increase in the value of the gold held by the United States (including the gold held as security for gold certificates) resulting from the change in the par value of the dollar authorized by section 2 of this Act shall be covered into the Treasury as a miscellaneous receipt.

Sec. 5.³ It is the sense of the Congress that the President shall take all appropriate action to expedite realization of the international monetary reform noted at the Smithsonian on December 18, 1971.

In addition to the amendments to the Par Value Modification Act made by Public Law 93-110, 87 Stat. 352, approved September 21, 1973, section 3 of Public Law 93-110 as amended provided as follows:

SEC. 3. (a) Sections 3 and 4 of the Gold Reserve Act of 1934 (31 U.S.C. 442 and 443) are repealed.

"(b) * No provision of any law in effect on the date of enactment of this Act, and no rule, regulation, or order in effect on the date subsections (a) and (b) become effective may be construed to prohibit any person from purchasing, holding, selling, or otherwise dealing with gold in the United States or abroad.

"(c) * The provisions of subsections (a) and (b) of this section shall take effect either on December 31, 1974, or at any time prior to such date that the President finds and reports to Congress that international monetary reform shall have proceeded to the point where elimination of regulations on private ownership of gold will not adversely affect the United States' international monetary position."

³ Section 5 added by section 2 of Public Law 93-110 (87 Stat. 352). The remainder of the text to Public Law 93-110 is retained on page 335 of text.

⁴ Amended by Section 2 of Public Law 93-373, 88 Stat. 445, approved August 14, 1974. Subsection (b) formerly read as follows:

"(b) No provision of any law in effect on the date of enactment of this Act, and no rule, regulations, or order under authority of any such law, may be construed to prohibit any person from purchasing, holding, selling, or otherwise dealing with gold.

Subsection (c) formerly read as follows:

"(c) The provisions of this section, pertaining to gold, shall take effect when the President finds and reports to the Congress that international monetary reform shall have proceeded to the point where elimination of regulations on private ownership of gold will not adversely affect the United States' international monetary position."

6. Providing Amendments to the Bretton Woods Agreement Act

Public Law 94-564 [H.R. 13955], 90 Stat. 2660, approved October 19, 1976

AN ACT To provide for amendment of the Bretton Woods Agreements Act, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Bretton Woods Agreements Act (22 U.S.C. 286-286k-2) is amended by adding at the end thereof the following new sections:

“SEC. 24. The United States Governor of the Fund is authorized to accept the amendments to the Articles of Agreement of the Fund approved in resolution numbered 31-4 of the Board of Governors of the Fund.

“SEC. 25. The United States Governor of the Fund is authorized to consent to an increase in the quota of the United States in the Fund equivalent to 1,705 million Special Drawing Rights.

“SEC. 26. The United States Governor of the Fund is directed to vote against the establishment of a Council authorized under Article XII, Section 1 of the Fund Articles of Agreement as amended, if under any circumstances the United States' vote in the Council would be less than its weighted vote in the Fund.”.

SEC. 2. Section 3 of the Bretton Woods Agreements Act (22 U.S.C. 286a) shall be amended as follows:

(1) section 3(c) shall be amended to read as follows:

“(c) Should the provisions of Schedule D of the Articles of Agreement of the Fund apply, the Governor of the Fund shall also serve as councillor, shall designate an alternate for the councillor, and may designate associates.”;

(2) a new section 3(d) shall be added to read as follows:

“(d) No person shall be entitled to receive any salary or other compensation from the United States for services as a Governor, executive director, councillor, alternate, or associate.”.

SEC. 3. The first sentence of section 5 of the Bretton Woods Agreements Act (22 U.S.C. 286c) is amended to read as follows: “Unless Congress by law authorizes such action, neither the President nor any person or agency shall on behalf of the United States (a) request or consent to any change in the quota of the United States under article III, section 2(a), of the Articles of Agreement of the Fund; (b) propose a par value for the United States dollar under paragraph 2, paragraph 4, or paragraph 10 of schedule C of the Articles of Agreement of the Fund; (c) propose any change in the par value of the United States dollar under paragraph 6 of schedule C of the Articles of Agreement of the Fund, or approve any general change in par values under paragraph 11 of schedule C; (d) subscribe to additional shares of stock under article II, section 3, of the Articles of Agreement of the Bank; (e) accept any amendment under article XXVIII

of the Articles of Agreement of the Fund or article VIII of the Articles of Agreement of the Bank; (f) make any loan to the Fund or the Bank; (g) approve the establishment of any additional trust fund, for the special benefit of a single member, or of a particular segment of the membership, of the Fund.”.

SEC. 4. The first sentence of section 17(a) of the Bretton Woods Agreements Act (22 U.S.C. 286e-2(a)) is amended to read as follows: “In order to carry out the purposes of the decision of January 5, 1962, of the Executive Directors of the International Monetary Fund, the Secretary of the Treasury is authorized to make loans, not to exceed \$2,000,000,000 outstanding at any one time, to the Fund under article VII, section 1(i), of the Articles of Agreement of the Fund.”.

SEC. 5. The Special Drawing Rights Act (22 U.S.C. 286n-r) is amended by:

(1) deleting “article XXIV” in section 3(a) and inserting in lieu thereof “article XVIII”;

(2) deleting “article XXVI, article XXX, and article XXXI” in section 3(b), wherever it appears, and inserting in lieu thereof “article XX, article XXIV, and article XXV”;

(3) deleting “article XXIV” in section 6 and inserting in lieu thereof “article XVIII”;

(4) deleting “article XXVII(b)” in section 7 and inserting in lieu thereof “article XXI(b)”.

SEC. 6. Section 2 of the Par Value Modification Act (31 U.S.C. 449) is hereby repealed.

SEC. 7. Section 10(a) of the Gold Reserve Act of 1934 (31 U.S.C. 822a(a)) is amended to read as follows:

“SEC. 10. (a) The Secretary of the Treasury, with the approval of the President, directly or through such agencies as he may designate, is authorized, for the account of the fund established in this section, to deal in gold and foreign exchange and such other instruments of credit and securities as he may deem necessary to and consistent with the United States obligations in the International Monetary Fund. The Secretary of the Treasury shall annually make a report on the operations of the fund to the President and to the Congress.”.

SEC. 8. Section 14(c) of the Gold Reserve Act of 1934 (31 U.S.C. 405b) is amended to read as follows: “The Secretary of the Treasury is authorized to issue gold certificates in such form and in such denominations as he may determine, against any gold held by the United States Treasury. The amount of gold certificates issued and outstanding shall at no time exceed the value, at the legal standard provided in section 2 of the Par Value Modification Act (31 U.S.C. 449) on the date of enactment of this amendment, of the gold so held against gold certificates.”.

SEC. 9. The amendments made by sections 2, 3, 4, 5, 6, and 7 of this Act shall become effective upon entry into force of the amendments to the Articles of Agreement of the International Monetary Fund approved in Resolution Numbered 31-4 of the Board of Governors of the Fund.¹

¹At publication of this volume, such amendments to the Articles of Agreement of the IMF had not yet entered into force.

7. Foreign Currency Reports ¹

Partial text of Public Law 93-110 [H.R. 6912], 87 Stat. 352, approved
September 21, 1973

AN ACT To amend the Par Value Modification Act, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the
United States of America in Congress assembled,*

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TITLE II—FOREIGN CURRENCY REPORTS

STATEMENT OF FINDINGS

SEC. 201. The Congress finds that—

(1) movements of mobile capital can have a significant impact on the proper functioning of the international monetary system;

(2) it is important to have as complete and current data as feasible on the nature and source of these capital flows, including transactions by large United States business enterprises and their foreign affiliates;

(3) it is desirable to emphasize this objective by supplementing existing legal authority for the collection of data on capital flows contained in section 5(b) of the Emergency Banking Act of 1933 (12 U.S.C. 95a) and section 8 of the Bretton Woods Agreements Act of 1945 (22 U.S.C. 286f).

AUTHORITY TO PRESCRIBE REGULATIONS

SEC. 202. (a) The Secretary of the Treasury (hereafter referred to as the "Secretary") is authorized and directed, under the authority of this title and any other authority conferred by law, to supplement regulations requiring the submission of reports on foreign currency transactions consistent with the statement of findings under section 201. Regulations prescribed under this title shall require that such reports contain such information and be submitted in such manner and at such times, with reasonable exceptions and classifications, as may be necessary to carry out the policy of this title.

(b) Reports required under this title shall cover foreign currency transactions conducted by any United States person and by any foreign person controlled by a United States person as such terms are defined in section 7(f)(2)(A) and 7(f)(2)(C) of the Securities Exchange Act of 1934.

¹ See also reporting requirements for House Interparliamentary Groups, pages 518-525.

ENFORCEMENT

SEC. 203. (a) Whoever fails to submit a report required under any rule or regulation issued under this title may be assessed a civil penalty not exceeding \$10,000 in a proceeding brought under subsection (b) of this section.

(b) Whenever it appears to the Secretary that any person has failed to submit a report required under any rule or regulation issued under this title or has violated any rule or regulation issued hereunder, the Secretary may in his discretion bring an action, in the proper district court of the United States or the proper United States court of any territory or other place subject to the jurisdiction of the United States, seeking a mandatory injunction commanding such person to comply with such rule or regulation, and upon a proper showing a permanent or temporary injunction or restraining order shall be granted without bond, and additionally the sanction provided for failure to submit a report under subsection (a).

8. Executive Order 11269, as amended

Executive Order 11269, February 14, 1966, 31 F.R. 2813, 3 CFR, 1966-70 Comp., p. 534, as amended by Executive Order 11334, March 7, 1967, 32 F.R. 3933, 3 CFR, 1966-70 Comp., p. 627; Executive Order 11808, September 30, 1974, 39 F.R. 35563; and by Executive Order 11977, March 14, 1977, 42 F.R. 14671

NATIONAL ADVISORY COUNCIL ON INTERNATIONAL MONETARY AND FINANCIAL POLICIES

By virtue of the authority vested in me by Reorganization Plan No. 4 of 1965 (30 F.R. 9353), and as President of the United States, it is ordered as follows:

Section 1. Establishment of Council. (a) There is hereby established the National Advisory Council on International Monetary and Financial Policies, hereinafter referred to as the Council.

(b) The Council shall be composed of the following members: the Secretary of the Treasury, who shall be the chairman of the Council, the Assistant to the President for Economic Affairs, who shall be Deputy Chairman of the Council,¹ the Secretary of State, the Secretary of Commerce, the Chairman of the Board of Governors of the Federal Reserve System, and the President of the Export-Import Bank of Washington.²

(c) Whenever matters within the jurisdiction of the Council may be of interest to Federal agencies not represented on the Council under Section 1(b) of this order, the Chairman of the Council may consult with such agencies and may invite them to designate representatives to participate in meetings and deliberations of the Council.

Sec. 2. Functions of the Council. (a) Exclusive of the functions delegated by the provisions of Section 3, below, and subject to the limitations contained in subsection (b) of this Section, all of the functions which are now vested in the President in consequence of their transfer to him effected by the provisions of Section 1(b) of Reorganization Plan No. 4 of 1965 are hereby delegated to the Council.

(b) The functions under Sections 4(a)³ and 4(b)(3)⁴ of the Bretton Woods Agreements Act, including those made applicable to the International Finance Corporation, the Inter-American Development Bank, and the International Development Association (22 U.S.C. 286b (a) and (b)(3); 282b; 283b; 284b), to the extent that such functions consist of coordination of policies, are hereby delegated to the Council. The functions so delegated shall be deemed to include the authority to review proposed individual loan, financial, exchange, or monetary transactions to the extent necessary or desirable to effectuate the coordination of policies.

¹ The Assistant to the President was added as a member by Sec. 6(c) of Executive Order 11808, September 30, 1974, 39 F.R. 35563.

² See footnote 2 on page 181.

³ For text see page 197.

⁴ For text see page 198.

(c)⁵ The Council shall perform with respect to the Asian Development Bank and African Development Fund,⁶ the same functions as those delegated to it by subsections (a) and (b) of this section with respect to other international financial institutions.

Sec. 3. Functions of the Secretary of the Treasury. (a) Functions which are now vested in the President in consequence of their transfer to him effected by the provisions of Section 1(b) of Reorganization Plan No. 4 of 1965 are hereby delegated to the Secretary of the Treasury to the extent of the following:

(1) Authority to instruct representatives of the United States to international financial organizations.

(2) Authority provided for in Section 4(b)(4) of the Bretton Woods Agreements Act (22 U.S.C. 286b(b)(4)).⁷

(b) In carrying out the functions delegated to him by subsection (a) of this Section the Secretary shall consult with the Council.

(c) Nothing in this order shall be deemed to derogate from the responsibilities of the Secretary of State with respect to the foreign policy of the United States.

(d)⁸ The Secretary of the Treasury shall perform, with respect to the Asian Development Bank and African Development Fund,⁶ the same functions as those delegated to him by subsections (a) and (b) of this section with respect to other international financial institutions.

(e)⁸ The Secretary of the Treasury is hereby delegated the functions conferred upon the President by Section 203(b) and Section 207 of the Act of May 31, 1976 (90 Stat. 593 and 594, 22 U.S.C. 290g-1 and 290g-5).

Sec. 4. Information. (a) All agencies and officers of the Government, including representatives of the United States to international financial organizations, (1) shall keep the Council or the Secretary of the Treasury, as the case may be, fully informed concerning the foreign loan, financial, exchange, and monetary transactions in which they engage or may engage or with respect to which they have other responsibility, and (2) shall provide the Council and the Secretary with such further information or data in their possession as the Council or the Secretary, as the case may be, may deem necessary to the appropriate discharge of the responsibilities of the Council and Secretary under Sections 2 and 3 of this order, respectively.

(b) The Council shall from time to time transmit to all appropriate agencies and officers of the Government statements of the policies of the Council under this order and such other information relating to the above-mentioned transactions or to the functions of the Council hereunder as the Council shall deem desirable.

Sec. 5. Executive Order No. 10033. Section 2(a) of Executive Order No. 10033 of February 8, 1949, is hereby amended by substituting for the name "National Advisory Council on International Monetary and Financial Problems" the following: "National Advisory Council on International Monetary and Financial Policies."

Sec. 6. Effective date. The provisions of this order shall be effective as of January 1, 1966.

⁵ Sec. 2(c) and Sec. 3(d), were added by Executive Order 11334, March 7, 1967, 32 FR 3933.

⁶ The words "and African Development Fund" were added by Executive Order 11977, March 14, 1977, 42 F.R. 14671.

⁷ For text, see page 198.

⁸ Subsection (e) was added by Sec. 4 of Executive Order 11977, March 14, 1977, 42 F.R. 14671.

9. International Finance Corporation Act, as amended ¹

Public Law 84-350 [S. 1894], 69 Stat. 669, approved August 11, 1955, as amended by Public Law 87-185 [H.R. 6765], 75 Stat. 413, approved August 30, 1961; Public Law 89-126 [S. 1742], 79 Stat. 519, approved August 14, 1965; and by Public Law 95-118 [H.R. 5262], 91 Stat. 1067 at 1068, approved October 3, 1977

AN ACT To provide for the participation of the United States in the International Finance Corporation.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

Section 1. This Act may be cited as the "International Finance Corporation Act."

ACCEPTANCE OF MEMBERSHIP

Sec. 2. The President is hereby authorized to accept membership for the United States in the International Finance Corporation (hereinafter referred to as the Corporation), provided for by the Articles of Agreement of the Corporation deposited in the archives of the International Bank for Reconstruction and Development.

GOVERNOR, EXECUTIVE DIRECTOR, AND ALTERNATES

Sec. 3. The governor and executive director of the International Bank for Reconstruction and Development, and the alternate for each of them, appointed under section 3 of the Bretton Woods Agreements Act, as amended (22 U.S.C. 286a), shall serve as governor, director and alternates, respectively, of the Corporation.

NATIONAL ADVISORY COUNCIL ON INTERNATIONAL MONETARY AND FINANCIAL PROBLEMS

Sec. 4. The provisions of section 4 of the Bretton Woods Agreements Act, as amended (22 U.S.C. 286b), shall apply with respect to the Corporation to the same extent as with respect to the International Bank for Reconstruction and Development. Reports with respect to the Corporation under paragraphs 5 and 6 of subsection (b) of section 4 of said Act, as amended, shall be included in the first report made thereunder after the establishment of the Corporation and in each succeeding report.

CERTAIN ACTS NOT TO BE TAKEN WITHOUT AUTHORIZATION

Sec. 5. Unless Congress by law authorizes such action, neither the President nor any person or agency shall on behalf of the United

¹ 22 U.S.C. 282-282i.

States (a) subscribe to additional shares of stock under article II, section 3, of the Articles of Agreement of the Corporation; (b) accept any amendment under article VII of the Articles of Agreement of the Corporation; (c) make any loan to the Corporation. The United States Governor of the Corporation is authorized to agree to an amendment to article III of the Articles of Agreement of the Corporation to authorize the Corporation to make investments of its funds in capital stock and to limit the exercise of voting rights by the Corporation unless exercise of such rights is deemed necessary by the Corporation to protect its interests, as proposed in the resolution submitted by the Board of Directors on February 20, 1961.² Unless Congress by law authorizes such action, no governor or alternate representing the United States shall vote for an increase of capital stock of the Corporation under article II, section 2(c)(ii), of the Articles of Agreement of the Corporation.

DEPOSITORIES

Sec. 6. Any Federal Reserve bank which is requested to do so by the Corporation shall act as its depository or as its fiscal agent, and the Board of Governors of the Federal Reserve System shall supervise and direct the carrying out of these functions by the Federal Reserve banks.

PAYMENT OF SUBSCRIPTIONS

Sec. 7. (a) The Secretary of the Treasury is authorized to pay the subscription of the United States to the Corporation and for this purpose is authorized to use as a public-debt transaction not to exceed \$35,168,000 of the proceeds of any securities hereafter issued under the Second Liberty Bond Act, as amended, and the purposes for which securities may be issued under that Act are extended to include such purpose. Payment under this subsection of the subscription of the United States to the Corporation and any repayment thereof shall be treated as public-debt transactions of the United States.

(b) Any payment of dividends made to the United States by the Corporation shall be covered into the Treasury as a miscellaneous receipt.

JURISDICTION AND VENUE OF ACTIONS

Sec. 8. For the purpose of any action which may be brought within the United States or its Territories or possessions by or against the Corporation in accordance with the Articles of Agreement of the Corporation, the Corporation shall be deemed to be an inhabitant of the Federal judicial district in which its principal office in the United States is located, and any such action at law or in equity to which the Corporation shall be a party shall be deemed to arise under the laws of the United States, and the district courts of the United States shall have original jurisdiction of any such action. When the Corporation is a defendant in any such action, it may, at any time before the trial thereof, remove such action from a State court into the district

² This sentence added by Act authorizing acceptance of an amendment to the articles of agreement of the International Finance Corporation permitting investment in capital stock, Public Law 87-185 (75 Stat. 413), approved August 30, 1961.

court of the United States for the proper district by following the procedure for removal of causes otherwise provided by law.

STATUS, IMMUNITIES AND PRIVILEGES

Sec. 9. The provisions of article V, section 5(d), and article VI, sections 2 to 9, both inclusive, of the Articles of Agreement of the Corporation shall have full force and effect in the United States and its Territories and possessions upon acceptance of membership by the United States in, and the establishment of, the Corporation.

Sec. 10.³ The United States Governor of the Corporation is authorized to agree to the amendments of the articles of agreement of the Corporation to remove the prohibition therein contained against the Corporation lending to or borrowing from the International Bank for Reconstruction and Development, and to place limitations on such borrowings.

Sec. 11.⁴ (a) The United States Governor of the Corporation is authorized—

(1) to vote for an increase of five hundred and forty thousand shares in the authorized capital stock of the Corporation; and

(2) if such increase becomes effective, to subscribe on behalf of the United States to one hundred and eleven thousand four hundred and ninety-three additional shares of the capital stock of the Corporation: *Provided, however,* That any commitment to make payment for such additional subscriptions shall be made subject to obtaining the necessary appropriations.

(b) In order to pay for the increase in the United States subscription to the Corporation provided for in this section, there are hereby authorized to be appropriated, without fiscal year limitation, \$111,493,000 for payment by the Secretary of the Treasury.⁵

³ Added by sec. 2 of Public Law 89-126 (79 Stat. 519), approved August 14, 1965.

⁴ Sec. 11 was added by Sec. 301 of Public Law 95-118 (91 Stat. 1068).

⁵ The Foreign Assistance Appropriations Act, 1978 states:

"For payment to the International Finance Corporation by the Secretary of the Treasury for the first installment of the United States share of the increase in subscriptions to capital stock, \$38,000,000, to remain available until expended."

That Act also expressed the sense of the Senate that the U.S. share of contributions to future replenishments of the Corporation should not exceed 23%.

10. Inter-American Development Bank Act, as amended

Public Law 86-147 [S. 1928], 73 Stat. 299; 22 U.S.C. 283-283o, approved August 7, 1959, as amended by Public Law 88-259 [H.R. 7406], 78 Stat. 3, approved January 22, 1964; Public Law 89-6 [H.R. 45], 79 Stat. 23, approved March 24, 1965; Public Law 90-88 [H.R. 9547], 81 Stat. 226, approved September 22, 1967; Public Law 90-325 [H.R. 15364], 82 Stat. 168, approved June 4, 1968; Public Law 91-599 [H.R. 18306], 84 Stat. 1657, approved December 30, 1970; Public Law 92-246 [S. 748], 86 Stat. 59, approved March 10, 1972; Public Law 94-302 [H.R. 9721], 90 Stat. 591, approved May 31, 1976; and by Public Law 95-118 [H.R. 5262], 91 Stat. 1067 at 1070, approved October 3, 1977

AN ACT To provide for the participation of the United States in the Inter-American Development Bank.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

Section 1. This Act may be cited as the "Inter-American Development Bank Act".

ACCEPTANCE OF MEMBERSHIP

Sec. 2. The President is hereby authorized to accept membership for the United States in the Inter-American Development Bank (hereinafter referred to as the Bank), provided for by the agreement establishing the bank (hereinafter referred to as the agreement) deposited in the archives of the Organization of American States.

GOVERNOR, ALTERNATE GOVERNOR, AND EXECUTIVE DIRECTOR

Sec. 3. (a) The President, by and with the advice and consent of the Senate, shall appoint a Governor of the Bank and an alternate for the governor. The term of office for the governor and the alternate governor shall be five years, but each shall remain in office until a successor has been appointed.

(b) The President, by and with the advice and consent of the Senate, shall appoint an Executive Director of the Bank and an alternate Executive Director.¹ Except as provided for in article XV, section 3, of the agreement, the term of office for the Executive Director shall be three years, but he shall remain in office until a successor has been appointed.

(c) No person shall be entitled to receive any salary or other compensation from the United States for services as a governor, alternate governor, or Executive Director.

¹The phrase "and an alternate Executive" added by sec. 21(b) of Public Law 91-599 (84 Stat. 1658).

**NATIONAL ADVISORY COUNCIL ON INTERNATIONAL MONETARY AND
FINANCIAL PROBLEMS**

Sec. 4. The provisions of section 4 of the Bretton Woods Agreements Act, as amended (22 U.S.C. 286b), shall apply with respect to the Bank to the same extent as with respect to the International Bank for Reconstruction and Development and the International Monetary Fund. Reports with respect to the Bank under paragraphs (5) and (6) of subsection (b) of section 4 of said Act, as amended, shall be included in the first report made thereunder after the establishment of the Bank and in each succeeding report.

CERTAIN ACTS NOT TO BE TAKEN WITHOUT AUTHORIZATION

Sec. 5. Unless Congress by law authorizes such action, neither the President nor any person or agency shall, on behalf of the United States, (a) subscribe to additional shares of stock under article II, section 3, or article IIA, section 2,² of the agreement; (b) request or consent to any change in the quota of the United States under article IV, section 3, of the agreement; (c) accept any amendment under article XII of the agreement; or (d) make a loan or provide other financing to the Bank, except that loans or other financing may be provided to the Bank by a United States agency created pursuant to an Act of Congress which is authorized by law to make loans or provide other financing to international organizations. Unless Congress by law authorizes such action, no governor or alternate appointed to represent the United States shall vote for any increase of capital stock of the Bank under article II, section 2, or article IIA, section 1,³ of the agreement of any increase in the resources of the Fund for Special Operations under article IV, section 3(g) thereof.

DEPOSITORIES

Sec. 6. Any Federal Reserve Bank which is requested to do so by the Bank shall act as its depository or as its fiscal agent and the Board of Governors of the Federal Reserve System shall supervise and direct the carrying out of these functions by the Federal Reserve banks.

PAYMENT OF SUBSCRIPTION

Sec. 7. (a) There is hereby authorized to be appropriated, without fiscal year limitation, for the purchase of thirty-five thousand shares of capital stock in the Bank, \$350 million. In addition, there is hereby authorized to be appropriated, without fiscal year limitation, for payment of the subscription of the United States to the Fund for Special Operations, \$100 million.⁴

² The words " , or article IIA, section 2," were added by Sec. 103(a)(2) of Public Law 94-302.

³ The words "or article IIA, section 1," were added by Sec. 103(a)(2) of Public Law 94-302.

⁴ As of October 23, 1962, Congress has appropriated the entire subscription. See the following appropriation Acts: 73 Stat. 445 (1959); 75 Stat. 721 (1961) and 76 Stat. 1168.

Title II of the Foreign Aid and Related Agencies Appropriation Act, 1964, Public Law 88-258, 77 Stat. 862, approved January 6, 1964, contained the following provision: "For payment of subscriptions to the Inter-American Development Bank for expansion of the Fund for Special Operations, \$50,000,000 to remain available until expended: *Provided*, That this paragraph shall be effective only upon enactment into law of authorizing legislation." Section 2(b) of Public Law 88-258, 78 Stat. 3, approved January 22, 1964, enacted such authorizing legislation.

(b) For the purpose of keeping to a minimum the cost to the United States of participation in the Bank, the Secretary of the Treasury, after paying the requisite part of the subscription and quota of the United States in the Bank required to be made under article II, section 4, and article IV, section 3, respectively, of the agreement, is authorized and directed to issue special notes of the United States from time to time, at par, and to deliver such notes to the Bank in exchange for dollars to the extent permitted by the agreement. The special notes provided for in this subsection shall be issued under the authority and subject to the provisions of the Second Liberty Bond Act, as amended, and the purposes for which securities may be issued under that Act are extended to include the purposes for which special notes are authorized and directed to be issued under this subsection, but such notes shall bear no interest, shall be nonnegotiable and shall be payable on demand of the Bank. The face amount of special notes issued to the Bank under the authority of this subsection and outstanding at any one time shall not exceed, in the aggregate, the amount of the subscription and quota of the United States actually paid to the Bank under article II, section 4, and article IV, section 3, respectively, of the agreement.

(c) Any payment made to the United States by the Bank as a distribution of net income shall be covered into the Treasury as a miscellaneous receipt.

JURISDICTION AND VENUE OF ACTION

Sec. 8. For the purpose of any action which may be brought within the United States, its Territories or possessions, or the Commonwealth of Puerto Rico by or against the Bank in accordance with the agreement, the Bank shall be deemed to be an inhabitant of the Federal judicial district in which its principal office in the United States is located, and any such action at law or in equity to which the Bank shall be a party shall be deemed to arise under the laws of the United States, and the district courts of the United States shall have original jurisdiction of any such action. When the Bank is a defendant in any such action, it may, at any time before the trial thereof, remove such action from a State court into the district court of the United States for the proper district by following the procedure for removal of causes otherwise provided by law.

STATUS, IMMUNITIES AND PRIVILEGES

Sec. 9. The provisions of article X, section 4(c), and article XI, sections 2 to 9, both inclusive, of the agreement shall have full force and effect in the United States, its Territories and possessions, and the Commonwealth of Puerto Rico, upon acceptance of membership by the United States in, and the establishment of, the Bank.

SECURITIES ISSUED BY BANK AS INVESTMENT SECURITIES FOR NATIONAL BANKS

Sec. 10. The last sentence of paragraph seven of section 5136 of the Revised Statutes, as amended (12 U.S.C. 24), is amended by inserting after the words "International Bank for Reconstruction and Develop-

ment" the words "or the Inter-American Development Bank" and by striking the words "said Bank" and inserting in lieu thereof "either of said Banks".

SECURITIES ISSUED BY BANK AS EXEMPT SECURITIES; REPORT FILED WITH
SECURITIES AND EXCHANGE COMMISSION

Sec. 11. (a) Any securities issued by the Bank (including any guarantee by the Bank, whether or not limited in scope) in connection with raising of funds for including in the Bank's ⁵ capital resources as defined in article II, section 5, and article IIA, section 4,⁵ of the agreement, and any securities guaranteed by the Bank as to both the principal and interest to which the commitment in article II, section 4(a)(ii), or article IIA, section 3(c),⁵ of the agreement is expressly applicable, shall be deemed to be exempted securities within the meaning of paragraph (a)(2) of section 3 of the Act of May 27, 1933, as amended (15 U.S.C. 77c), and paragraph (a)(12) of section 3 of the Act of June 6, 1934, as amended (15 U.S.C. 78c). The Bank shall file with the Securities and Exchange Commission such annual and other reports with regard to such securities as the Commission shall determine to be appropriate in view of the special character of the Bank and its operations and necessary in the public interest or for the protection of investors.

(b) The Securities and Exchange Commission, acting in consultation with the National Advisory Council on International Monetary and Financial Problems, is authorized to suspend the provisions of subsection (a) at any time as to any or all securities issued or guaranteed by the Bank during the period of such suspension. The Commission shall include in its annual reports to Congress such information as it shall deem advisable with regard to the operations and effect of this section and in connection therewith shall include any views submitted for such purpose by any association of dealers registered with the Commission.

CERTAIN REPORTS REQUIRED

Sec. 12. The reports of the National Advisory Council on International Monetary and Financial Problems provided for in section 4(b)(6) of the Bretton Woods Agreements Act (and referred to in section 4 of this Act) shall also cover and include the effectiveness of the provisions of section 11 of this Act and the exemption for securities issued by the Bank provided by section 5136 of the Revised Statutes in facilitating the operations of the Bank and the development of the economic resources of member countries of the Bank and the recommendations of the Council as to any modifications it may deem desirable in the provisions of this Act.

Sec. 13.⁶ The United States Governor of the Bank is hereby authorized (1) to vote (A) for increases in the authorized capital stock of

⁵ Sec. 103(a)(3) of Public Law 94-302 deleted the word "ordinary" following "Banks", and added the words "and article IIA, section 4," and "or article IIA, section 3(c)."

⁶ This section was added by section 1 of Public Law 88-259, 78 Stat. 3, approved January 22, 1964.

Section 2(a) of Public Law 88-259 authorized the appropriation of \$411,760,000, without fiscal year limitation, for payment of the increased United States subscription under section 13.

the Bank under article II, section 2, of the agreement, and (B) for an increase in the resources of the Fund for Special Operations under article IV, section 3, of the agreement, all as recommended by the Executive Directors in a report dated March 18, 1963, to the Board of Governors of the Bank; (2) to agree on behalf of the United States to subscribe to its proportionate share of the \$1,000,000,000 increase in the authorized callable capital stock of the Bank; and (3) to vote for an amendment to article VIII, section 3, of the agreement to provide that the Board of Governors may, upon certain conditions, increase by one the number of Executive Directors.

AUDIT ⁷

Sec. 14. (a) The Secretary of the Treasury shall instruct the United States Executive Director to propose the establishment by the Board of Executive Directors of a program of selective but continuing independent and comprehensive audit of the Inter-American Development Bank, in accordance with such terms of reference as the Board of Executive Directors itself (or through a subcommittee), may prescribe. Such proposal shall provide that the audit reports be submitted to the Board of Executive Directors and to the Board of Governors.

(b) The Comptroller General of the United States shall prepare for the Secretary of the Treasury the scope of the audit and the auditing and reporting standards for the use of the United States Executive Directors in assisting in the formulation of the terms of reference.

(c) The reports of the National Advisory Council on International Monetary and Financial Policies to the Congress shall include, among other things, an appraisal of the effectiveness of the implementation and administration of the loans made by the Bank based upon the audit reports. The Comptroller General shall periodically review the reports of audit and findings issued and report to the Secretary of the Treasury and the Congress any suggestions he might have in improving the scope of the audit or auditing and reporting standards of the independent auditing firm, group, or staff.

FUND FOR SPECIAL OPERATIONS OF THE BANK ⁸

Sec. 15. (a) The United States Governor of the Bank is hereby authorized to vote in favor of the resolution entitled "Increase of Resources of the Fund for Special Operations" proposed by the Governors at their annual meeting in April 1964, and now pending before the Board of Governors of the Bank. Upon the adoption of such resolution, the United States Governor is authorized to agree, on behalf of the United States, to pay to the Fund for Special Operations of the Bank, the sum of \$750,000,000, in accordance with and subject to the terms and conditions of such resolution.

(b) There is hereby authorized to be appropriated without fiscal year limitation, for the United States share in the increase in the resources of the Fund for Special Operations of the Bank, the sum of \$750,000,000.

⁷ Section 14 was added by Public Law 90-88, 81 Stat. 227, approved September 22, 1967.

⁸ This section was added by Public Law 89-6, 70 Stat. 23, approved March 24, 1965, as section 14 and renumbered by Public Law 90-88, 81 Stat. 226, approved September 22, 1967.

(c) With respect to any dollars herein provided, the voting power of the United States shall be exercised for the purpose of disapproving any loan from the Fund for Special Operations of the Bank for any project, enterprise, or activity in any country, during any period for which the President has suspended assistance to the government of such country because of any action taken on or after January 1, 1962, by the government of such country or any government agency or subdivision within such country as specified in paragraph (A), (B), or (C) of subsection (e) (1) of section 620 of the Foreign Assistance Act of 1961, as amended, and the failure of such country within a reasonable time to take appropriate steps to discharge its obligations or provide relief in accordance with the provisions of such subsection.

Sec. 16.⁹ (a) The United States Governor of the Bank is hereby authorized to vote in favor of the resolution entitled "Increase of \$1,200,000,000 in Resources of Fund for Special Operations" proposed by the Governors at their annual meeting in April 1967 and now pending before the Board of Governors of the Bank. Upon the adoption of such resolution, the United States Governor is authorized to agree, on behalf of the United States, to pay to the Fund for Special Operations of the Bank, the sum of \$900,000,000, in accordance with and subject to the terms and conditions of such resolution, and subject to the further condition that in consideration of the United States balance-of-payments deficit any local cost financing, by project or otherwise, with the funds authorized under this section be held to the minimum possible level. The United States Governor is also authorized to vote in favor of the amendment to Annex C of the agreement, now pending before the Board of Governors of the Bank, to modify the procedure employed in the election of Executive Directors.

(b) There is hereby authorized to be appropriated without fiscal year limitation, for the United States share in the increase in the resources of the fund for Special Operations of the Bank, the sum of \$900,000,000.

(c) The voting power of the United States shall be exercised for the purpose of disapproving any loan which might assist the recipient country directly or indirectly to acquire sophisticated or heavy military equipment.

Sec. 17.¹⁰ (a) The United States Governor of the Bank is hereby authorized (1) to vote for an increase in the authorized capital stock of the Bank under article II, section 2, of the agreement as recommended by the Board of Executive Directors in its report of April 1967, to the Board of Governors of the Bank; and (2) to agree on behalf of the United States to subscribe to its proportionate share of the \$1,000,000,000 increase in the authorized callable capital stock of the Bank.

(b) There is hereby authorized to be appropriated, without fiscal year limitation, for payment by the Secretary of the Treasury of the increased United States subscription to the capital stock of the Inter-American Development Bank, \$411,760,000.

Sec. 18.¹¹ (a) The United States Governor of the Bank is hereby authorized to vote in favor of the two resolutions proposed by the

⁹ Section 16 was added by Public Law 90-88, 81 Stat. 226, approved September 22, 1967.

¹⁰ Section 17 was added by Public Law 90-325, 82 Stat. 168, approved June 4, 1968.

¹¹ Section 18 was added by sec. 21 of Public Law 91-599, 84 Stat. 1658, approved December 30, 1970.

Governors at their annual meeting in April 1970 and now pending before the Board of Governors of the Bank, which provide for (1) an increase in the authorized capital stock to the Bank and additional subscriptions of members thereto and (2) an increase in the resources of the Fund for Special Operations and contributions thereto. Upon adoption of such resolutions the United States Governor is authorized to agree on behalf of the United States (1) to subscribe to eighty-two thousand three hundred and fifty-two shares of \$10,000 par value of the increase in the authorized capital stock of the Bank of which sixty-seven thousand three hundred and fifty-two shall be callable shares and fifteen thousand shall be paid in and (2) to pay to the Fund for Special Operations an initial annual installment of \$100,000,000 and, upon further authorization by the Congress, two subsequent annual installments of \$450,000,000 each, in accordance with and subject to the terms and conditions of such resolutions.

(b) There are hereby authorized to be appropriated, without fiscal year limitation, the amounts necessary for payment by the Secretary of the Treasury of (1) three annual installments of \$50,000,000 each for the United States subscription to paid-in capital stock of the Bank; (2) two installments of \$336,760,000 each for the United States subscription to the callable capital stock of the Bank; and (3) one installment of \$100,000,000 for the United States share of the increase in the resources of the Fund for Special Operations of the Bank.

Sec. 19.¹² (a) The United States Governor of the Bank is authorized to pay to the Fund for Special Operations two annual installments of \$450,000,000 each in accordance with and subject to the terms and conditions of the resolution adopted by the Board of Governors on December 31, 1970, concerning an increase in the resources of the Fund for Special Operations and contributions thereto.

(b) There are hereby authorized to be appropriated, without fiscal year limitation, the amounts necessary for payment by the Secretary of the Treasury of the two annual installments of \$450,000,000 each for the United States share of the increase in the resources of the Fund for Special Operations of the Bank.

Sec. 20.¹² The United States Governor of the Bank is authorized to agree to amendments to the provisions of the articles of agreement as provided in proposed Board of Governors resolutions entitled (a) "Amendment of the Provisions of the Agreement Establishing the Bank with Respect to Membership and to Related Matters" and (b) "Amendment of the Provisions of the Agreement Establishing the Bank with Respect to the Election of Executive Directors".

Sec. 21.¹² The President shall instruct the United States Executive Director of the Bank to vote against any loan or other utilization of the funds of the Bank for the benefit of any country which has—

(1) nationalized or expropriated or seized ownership or control of property owned by any United States citizen or by any corporation, partnership, or association not less than 50 per centum of which is beneficially owned by United States citizens;

(2) taken steps to repudiate or nullify existing contracts or agreements with any United States citizen or any corporation, partnership, or association not less than 50 per centum of which is beneficially owned by United States citizens; or

¹² Sections 19 through 22 were added by Public Law 92-246, 86 Stat. 59, approved March 10, 1972.

(3) imposed or enforced discriminatory taxes or other exactions, or restrictive maintenance or operational conditions, or has taken other actions, which have the effect of nationalizing, expropriating, or otherwise seizing ownership or control of property so owned;

unless the President determines that (A) an arrangement for prompt, adequate, and effective compensation has been made, (B) the parties have submitted the dispute to arbitration under the rules of the Convention for the Settlement of Investment Disputes, or (C) good faith negotiations are in progress aimed at providing prompt, adequate, and effective compensation under the applicable principles of international law.

Sec. 22.¹² The Secretary of the Treasury shall instruct the United States Executive Director of the Bank to vote against any loan or other utilization of the funds of the Bank for the benefit of any country with respect to which the President has made a determination, and so notified the Secretary of the Treasury, that the government of such country has failed to take adequate steps to prevent narcotic drugs and other controlled substances (as defined by the Comprehensive Drug Abuse Prevention and Control Act of 1970) produced or processed, in whole or in part, in such country, or transported through such country, from being sold illegally within the jurisdiction of such country to United States Government personnel or their dependents, or from entering the United States unlawfully. Such instruction shall continue in effect until the President determines, and so notifies the Secretary of the Treasury, that the government of such country has taken adequate steps to prevent such sale or entry of narcotic drugs and other controlled substances.

Sec. 23.¹³ The United States Governor of the Bank is authorized to vote for three proposed resolutions of the Board of Governors entitled (a) "Amendments to the Agreement Establishing the Bank with respect to the Creation of the Inter-Regional Capital Stock of the Bank and to Related Matters", (b) "General Rules Governing Admission of Nonregional Countries to Membership in the Bank," and (c) "Increase in the Authorized Callable Ordinary Capital Stock and Subscriptions Thereto in Connection with the Admission of Nonregional Member Countries", which were submitted to the Board of Governors pursuant to a resolution of the Board of Executive Directors approved on March 4, 1975.

Sec. 24.¹⁴ The United States Governor of the Bank is authorized to agree to the amendments to article II, section 1(b) and article IV, section 3(b) of the Agreement Establishing the Bank, as proposed by the Board of Executive Directors, to provide for membership for the Bahamas and Guyana in the Bank at such times and in accordance with such terms as the Bank may determine.

Sec. 25.¹⁵ The United States Governor of the Bank is authorized to agree to the amendments to article III, sections 1, 4, and 6(b) of the Agreement Establishing the Bank, as proposed by the Board of Executive Directors, to provide for lending to the Caribbean Development Bank.

¹² 22 USC 283f. Sec. 23 was added by Sec. 103(n) of Public Law 94-302.

¹⁴ 22 USC 283u. Sec. 24 was added by Sec. 103(a) of Public Law 94-302.

¹⁵ 22 USC 283v. Sec. 25 was added by Sec. 103(a) of Public Law 94-302.

Sec. 26.¹⁶ (a) The United States Governor of the Bank is hereby authorized to vote in favor of two resolutions proposed by the Governors at a special meeting in July 1975, and now pending before the Board of Governors of the Bank, which provide for (1) an increase in the authorized capital stock of the Bank and additional subscriptions of members thereto and (2) an increase in the resources of the Fund for Special Operations and contributions thereto. Upon adoption of such resolutions, the United States Governor is authorized to agree on behalf of the United States (1) to subscribe to ninety-nine thousand four hundred and seventy-four shares of \$10,000 par value of the increase in the authorized capital stock of the Bank of which eighty-nine thousand five hundred and twenty-six shall be callable shares and nine thousand nine hundred and forty-eight shall be paid in and (2) to contribute to the Fund for Special Operations \$600,000,000, in accordance with and subject to the terms and conditions of such resolutions.

(b) There are hereby authorized to be appropriated, without fiscal year limitation, the amounts necessary for payment by the Secretary of the Treasury of (1) \$1,199,997,873 for the United States subscription to the capital stock of the Bank and (2) \$600,000,000 for the United States share of the increase in the resources of the Fund for Special Operations.¹⁷

Sec. 27.¹⁸ (a) The United States Governor of the Bank is hereby authorized to vote for an additional increase of one hundred and eight thousand shares of \$10,000 par value in the authorized callable capital stock of the Bank as recommended in the resolution of the Board of Governors entitled "Increase of US\$4 Billion in the Authorized Capital Stock and Subscriptions Thereto". Upon adoption of a Board of Governors resolution increasing the authorized capital stock of the Bank by such amount, the United States Governor is authorized to agree on behalf of the United States to subscribe to thirty-seven thousand three hundred and three shares of \$10,000 par value of such

¹⁶ 22 U.S.C. 283w. Sec. 26 was added by Sec. 101 of Public Law 94-302.

¹⁷ Supplemental Appropriations Act, 1977 (91 Stat. 67) states:

"For payment to the Inter-American Development Bank by the Secretary of the Treasury of the United States share of the increase in subscription to capital stock and in the resources of the Fund for Special Operations, as authorized by the Inter-American Development Bank Act of May 31, 1976 (Public Law 94-302), \$316,000,000, to remain available until expended; of which not more than \$36,000,000 shall be available for paid-in capital stock, not more than \$120,000,000 shall be available for callable capital stock, and not more than \$160,000,000 shall be available for the Fund for Special Operations."

Foreign Assistance Appropriations Act, 1978 states:

"For payment to the Inter-American Development Bank by the Secretary of the Treasury for the United States share of (1) the increase in subscriptions to (a) paid-in capital stock, and (b) callable capital stock, and (2) the fifth replenishment of the resources of the Fund for Special Operations as authorized by the Act of May 31, 1976 (Public Law 94-302), \$53,000,000, to remain available until expended: *Provided*, That no such payment may be made while the United States Executive Director to the Bank is compensated by the Bank at a rate in excess of the rate provided for an individual occupying a position at level IV of the Executive Schedule under section 5315 of title 5, United States Code, or while the alternate United States Executive Director to the Bank is compensated by the Bank at a rate in excess of the rate provided for an individual occupying a position at level V of the Executive Schedule under section 5316 of title 5, United States Code."

However, Sec. 508 of the same Act reduced the \$523,000,000 figure to \$480,000,000. This decrease in the appropriation to the Bank was due to a reduction of the budget authority for the Bank.

This Act also expressed a sense of the Senate that the U.S. share of contributions to future replenishments of the Bank should not exceed 34.5% of paid-in ordinary capital, callable ordinary capital, paid-in interregional capital, or callable interregional capital, and 40% of the Fund for Special Operations.

¹⁸ 22 U.S.C. 283x. Sec. 27 was added by Sec. 101 of Public Law 94-302.

additional increase in callable capital in accordance with and subject to the terms and conditions of such resolution.

(b) In order to pay for the increase in the United States subscription to the Bank provided for in this section, there is hereby authorized to be appropriated, without fiscal year limitation, \$450,002,218 for payment by the Secretary of the Treasury.¹⁷

Sec. 28. * * * [Repealed—1977]¹⁹

Sec. 29.²⁰ (a) The United States Executive Director of the Bank shall propose to the Board of Executive Directors of the Bank the adoption of a resolution providing (1) that the development and utilization of light-capital or intermediate technologies should be accepted as major facets of the Bank's development strategy, and (2) that such light-capital or intermediate technologies should be developed and utilized as soon as possible in all Bank activities. Such resolution shall further provide that, by the close of the calendar year 1977, some projects that employ primarily such light-capital or intermediate technologies shall be designed and approved.

(b) The United States Governor of the Bank shall report to the Congress no later than six months after the date of the enactment of this section on the proposal made under subsection (a), and no later than twelve months after such date on the progress that has been made with respect to such proposal.

¹⁹ Sec. 28, which was added by Sec. 103(a) of Public Law 94-302 and had directed the U.S. Executive Director of the Bank to vote against any loan or assistance to any country engaging in violations of human rights, was repealed by Sec. 702 of Public Law 95-118 (91 Stat. 1070). For new references concerning U.S. activity in the Bank and human rights, see Title VII of Public Law 95-118 (page 246).

²⁰ 22 U.S.C. 283z. Sec. 29 was added by Sec. 104 of Public Law 94-302.

11. International Development Association Act, as amended

Public Law 86-565 [H.R. 11001], 74 Stat. 293; 22 U.S.C. 284, 283a-284e, 284g, 284t, approved June 30, 1960, as amended by Public Law 88-310 [S. 2214], 78 Stat. 200, approved May 26, 1964; Public Law 91-14 [H.R. 33], 83 Stat. 10, approved May 23, 1969; Public Law 92-247 [S. 2010], 86 Stat. 60, approved March 10, 1972; Public Law 93-373 [S. 2665], 88 Stat. 445, approved August 14, 1974; and by Public Law 95-118 [H.R. 5262], 91 Stat. 1067 at 1068, approved October 3, 1977.

AN ACT To provide for the participation of the United States in the International Development Association.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

Section 1. This Act may be cited as the "International Development Association Act".

ACCEPTANCE OF MEMBERSHIP

Sec. 2. The President is hereby authorized to accept membership for the United States in the International Development Association (hereinafter referred to as the "Association"), provided for by the Articles of Agreement (hereinafter referred to as the "Articles") of the Association deposited in the archives of the International Bank for Reconstruction and Development.

GOVERNOR, EXECUTIVE DIRECTOR, AND ALTERNATES

Sec. 3. The Governor and Executive Director of the International Bank for Reconstruction and Development, and the alternate for each of them, appointed under section 3 of the Bretton Woods Agreements Act, as amended (22 U.S.C. 286a), shall serve as Governor, Executive Director and alternates, respectively, of the Association.

NATIONAL ADVISORY COUNCIL ON INTERNATIONAL MONETARY AND FINANCIAL PROBLEMS

Sec. 4. The provisions of section 4 of the Bretton Woods Agreements Act, as amended (22 U.S.C. 286b), shall apply with respect to the Association to the same extent as with respect to the International Bank for Reconstruction and Development and the International Monetary Fund. Reports with respect to the Association under paragraphs (5) and (6) of subsection (b) of section 4 of said Act, as amended, shall be included in the first report made thereunder after the establishment of the Association and in each succeeding report.

CERTAIN ACTS NOT TO BE TAKEN WITHOUT AUTHORIZATION

Sec. 5. Unless Congress by law authorizes such action, neither the President nor any person or agency shall, on behalf of the United States, (a) subscribe to additional funds under article III, section 1, of the articles; (b) accept any amendment under article IX of the articles; or (c) make a loan or provide other financing to the Association.

DEPOSITORIES

Sec. 6. Any Federal Reserve bank which is requested to do so by the Association shall act as its depository or as its fiscal agent, and the Board of Governors of the Federal Reserve System shall supervise and direct the carrying out of these functions by the Federal Reserve banks.

PAYMENT OF SUBSCRIPTIONS

Sec. 7. (a) There is hereby authorized to be appropriated, without fiscal year limitation, for the subscription of the United States to the Association, \$320,290,000.¹

(b)² The United States Governor is hereby authorized (1) to vote for an increase in the resources of the Association and (2) to agree on behalf of the United States to contribute to the Association the sum of \$312 million, both as recommended by the Executive Directors, in a report dated September 9, 1963, to the Board of Governors of the Association. There is hereby authorized to be appropriated out of funds supplied by the Nation's taxpayers or out of funds borrowed on their credit, without fiscal year limitation, \$312 million to provide the United States share of the increase in the resources of the Association.

(c)³ For the purpose of keeping to a minimum the cost to the United States of participation in the Association, the Secretary of the Treasury is authorized and directed to issue special notes of the United States from time to time, at par, and to deliver such notes to the Association in exchange for dollars to the extent permitted by the articles. The special notes provided for in this subsection shall be issued under the authority and subject to the provisions of the Second Liberty Bond Act, as amended, and the purposes for which securities may be issued under that Act are extended to include the purposes for which special notes are authorized and directed to be issued under this subsection, but such notes shall bear no interest, shall be nonnegotiable, and shall be payable on demand of the Association. The face amount of special notes issued to the Association under the authority of this subsection and outstanding at any one time shall not exceed in the aggregate, the amount actually paid to the Association under the articles.

¹ The United States subscription was payable in five annual installments (see Art. II, Sec. 2, IDA Articles of Agreement, Vol. III, Sec. H), one of \$73,666,700 and four of \$61,656,000. For the first installment appropriation see Public Law 88-651, approved July 14, 1960, (74 Stat. 514); for the second installment appropriation see Public Law 87-329, approved September 30, 1961 (75 Stat. 721); and for the third installment appropriation see Public Law 87-872, approved October 23, 1962 (76 Stat. 1168). Title II of the Foreign Aid and Related Agencies Appropriation Act 1964, Public Law 88-258 (77 Stat. 862) approved January 6, 1964, appropriated \$61,656,000 for payment of the fourth installment of the United States subscription, to remain available until expended.

² This subsection was added by section 1 of Public Law 88-310 (78 Stat. 200) approved May 26, 1964.

³ The following changes were made in this subsection by section 2 of Public Law 88-310; the subsection was redesignated as "(c)"; the phrase ", after paying the requisite part of the subscription of the United States in the Association required to be made under the articles," which appeared after the word "Treasury" was deleted; and in the last sentence the words "of the subscription of the United States" which preceded the word "actually" were deleted.

(d)⁴ Any payment made to the United States by the Association as a distribution of net income shall be covered into the Treasury as a miscellaneous receipt.

JURISDICTION AND VENUE OF ACTIONS

Sec. 8. For the purpose of any action which may be brought within the United States, its possessions, or the Commonwealth of Puerto Rico, by or against the Association in accordance with the articles, the Association shall be deemed to be an inhabitant of the Federal judicial district in which its principal office in the United States is located, and any such action at law or in equity to which the Association shall be a party shall be deemed to arise under the laws of the United States, and the district courts of the United States shall have original jurisdiction of any such action. When the Association is a defendant in any such action, it may, at any time before the trial thereof, remove such action from a State court into the district court of the United States for the proper district by following the procedure for removal of causes otherwise provided by law.

STATUS, IMMUNITIES, AND PRIVILEGES

Sec. 9. The provisions of article VII, section 5(d), and article VIII, sections 2 to 9, both inclusive, of the articles shall have full force and effect in the United States, its possessions, and the Commonwealth of Puerto Rico, upon acceptance of membership by the United States in, and the establishment of, the Association.

Sec. 10.⁵ The United States Governor is hereby authorized (1) to vote in favor of the second replenishment resolutions providing for an increase in the resources of the Association, and (2) to agree on behalf of the United States to contribute to the Association the sum of \$480,000,000, as recommended by the Executive Directors in a report dated March 8, 1968, to the Board of Governors of the Association. There is hereby authorized to be appropriated, without fiscal year limitation, \$480,000,000 for payment by the Secretary of the Treasury of the United States share of the increase in the resources of the Association.

Sec. 11.⁶ The United States Governor is hereby authorized to agree on behalf of the United States to contribute to the Association three annual installments of \$320,000,000 each as recommended in the "Report of the Executive Directors to the Board of Governors on Additions to IDA Resources: Third Replenishment," dated July 21, 1970. There is hereby authorized to be appropriated, without fiscal year limitation, the amounts necessary for payment by the Secretary of the Treasury of three annual installments of \$320,000,000 each for the United States share of the increase in the resources of the Association.

Sec. 12.⁶ The President shall instruct the United States Executive Directors of the International Bank for Reconstruction and Development and the International Development Association to vote against any loan or other utilization of the funds of the Bank and the Association for the benefit of any country which has—

⁴ This subsection was redesignated "(d)" by section 1 of Public Law 88-310.

⁵ Sec. 10 was added by Public Law 91-14 [H.R. 331], 83 Stat. 10, approved May 23, 1969.

⁶ Sections 11 through 13 were added by Public Law 92-247, 86 Stat. 60, Mar. 10, 1972.

(1) nationalized or expropriated or seized ownership or control of property owned by any United States citizen or by any corporation, partnership, or association not less than 50 per centum of which is beneficially owned by United States citizens;

(2) taken steps to repudiate or nullify existing contracts or agreements with any United States citizen or any corporation, partnership, or association not less than 50 per centum of which is beneficially owned by United States citizens; or

(3) imposed or enforced discriminatory taxes or other exactions, or restrictive maintenance or operational conditions, or has taken other actions, which have the effect of nationalizing, expropriating, or otherwise seizing ownership or control of property so owned;

unless the President determines that (A) an arrangement for prompt, adequate, and effective compensation has been made, (B) the parties have submitted the dispute to arbitration under the rules of the Convention for the Settlement of Investment Disputes, or (C) good faith negotiations are in progress aimed at providing prompt, adequate, and effective compensation under the applicable principles of international law.

Sec. 13.⁶ The Secretary of the Treasury shall instruct the United States Executive Directors of the International Bank for Reconstruction and Development and the International Development Association to vote against any loan or other utilization of the funds of the Bank and the Association for the benefit of any country with respect to which the President has made a determination, and so notified the Secretary of the Treasury, that the government of such country has failed to take adequate steps to prevent narcotic drugs and other controlled substances (as defined by the Comprehensive Drug Abuse Prevention and Control Act of 1970) produced or processed, in whole or in part, in such country, or transported through such country, from being sold illegally within the jurisdiction of such country to United States Government personnel or their dependents, or from entering the United States unlawfully. Such instruction shall continue in effect until the President determines, and so notifies the Secretary of the Treasury, that the government of such country has taken adequate steps to prevent such sale or entry of narcotic drugs and other controlled substances.

Sec. 14.⁷ (a) The United States Governor is hereby authorized to agree on behalf of the United States to pay to the Association four annual installments of \$375,000,000 each as the United States contribution to the Fourth Replenishment of the Resources of the Association.

(b) In order to pay for the United States contribution, there is hereby authorized to be appropriated without fiscal year limitation four annual installments of \$375,000,000 each for payment by the Secretary of the Treasury.⁸

⁷ Sections 14 and 15 were added by Public Law 93-373, 88 Stat. 445, approved August 14, 1974.

⁸ Supplemental Appropriations Act, 1977 states:

"For payment by the Secretary of the Treasury of the remaining portion of the first installment of the United States contribution to the fourth replenishment of the resources of the International Development Association, as authorized by the International Development Association Act of August 14, 1974 (Public Law 93-373), \$55,000,000, to remain available until expended."

Sec. 15. * * * [Repealed—1977] ⁹

Sec. 16.¹⁰ (a) The United States Governor is hereby authorized to agree on behalf of the United States to pay to the Association \$2,400,000,000 as the United States contribution to the fifth replenishment of the Resources of the Association: *Provided, however,* That any commitment to make such contributions shall be made subject to obtaining the necessary appropriations.

(b) In order to pay for the United States contribution provided for in this section, there are hereby authorized to be appropriated, without fiscal year limitation, \$2,400,000,000 for payment by the Secretary of the Treasury.¹¹

⁹ Sec. 15, which directed the U.S. Governor to vote against any loan or assistance to any country which develops a nuclear explosive device (unless such country was a party to the Treaty on the Non-Proliferation of Nuclear Weapons), was repealed by Sec. 702 of Public Law 95-118 (91 Stat. 1070).

¹⁰ Sec. 16 was added by Sec. 401 of Public Law 95-118 (91 Stat. 1068).

¹¹ The Foreign Assistance Appropriations Act, 1978 states:

"For payment to the International Development Association by the Secretary of the Treasury for the first installment of the United States contribution to the fifth replenishment: \$800,000,000 to remain available until expended: *Provided*, That no such payment may be made while the United States Executive Director to the International Bank for Reconstruction and Development is compensated by the Bank at a rate in excess of the rate provided for an individual occupying a position at level IV of the Executive Schedule under section 5315 of title 5 United States Code, or while the alternate United States Executive Director to the Bank is compensated by the Bank at a rate in excess of the rate provided for an individual occupying a position at level V of the Executive Schedule under section 5316 of title 5, United States Code."

This Act also expresses the sense of the Senate that the U.S. share of contributions to future replenishments of the Association should not exceed 25 percent.

12. Asian Development Bank Act, as amended ¹

Public Law 89-369 [H.R. 12563], 80 Stat. 71, approved March 16, 1966, as amended by Public Law 92-245 [S. 749], 86 Stat. 57, approved March 10, 1972, and by Public Law 93-189 [S. 1443], 87 Stat. 714 at 732, approved December 17, 1973¹; Public Law 93-537 [S. 2193], 88 Stat. 1735, approved December 22, 1974; and by Public Law 95-118 [H.R. 5262], 91 Stat. 1067 at 1068, approved October 3, 1977

AN ACT To provide for the participation of the United States in the Asian Development Bank.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Asian Development Bank Act".

ACCEPTANCE OF MEMBERSHIP

Section 2. The President is hereby authorized to accept membership for the United States in the Asian Development Bank (hereinafter referred to as the "Bank") provided for by the agreement establishing the Bank (hereinafter referred to as the "agreement") deposited in the archives of the United Nations.

Sec. 3. (a) The President, by and with the advice and consent of the Senate, shall appoint a Governor of the Bank, an alternate for the Governor, and a Director of the Bank.

(b) No person shall be entitled to receive any salary or other compensation from the United States for services as a Governor or Alternate Governor. The Director may, in the discretion of the President, receive such compensation, allowances, and other benefits as, together with those received by him from the Bank, will equal those authorized for a Chief of Mission, class 2, within the meaning of the Foreign Service Act of 1946, as amended.

Sec. 4. (a) The policies and operations of the representatives of the United States on the Bank shall be coordinated with other United States policies in such manner as the President shall direct.

(b) An annual report with respect to United States participation in the Bank shall be submitted to the Congress by such agency or officer as the President shall designate.

Sec. 5. Unless the Congress by law authorizes such action, neither the President nor any person or agency shall, on behalf of the United States, (a) subscribe to additional shares of stock of the Bank; (b) vote for or agree to any amendment of the agreement which increases the obligations of the United States, or which would change the purpose or functions of the Bank; or (c) make a loan or provide other financing to the Bank, except that funds for technical assistance not to exceed \$1,000,000 in any one year may be provided to the Bank by a United States agency created pursuant to an Act of Congress

¹ 22 U.S.C. 285-285t.

which is authorized by law to provide funds to international organizations.

DEPOSITORIES

Sec. 6. Any Federal Reserve bank which is requested to do so by the Bank shall act as its depository or as its fiscal agent, and the Board of Governors of the Federal Reserve System shall supervise and direct the carrying out of these functions by the Federal Reserve banks.

PAYMENT OF SUBSCRIPTIONS

Sec. 7. (a) There is hereby authorized to be appropriated, without fiscal year limitation, for the purchase of twenty thousand shares of capital stock of the Bank, \$200,000,000.

(b) Any payment made to the United States by the Bank as a distribution of net income shall be covered into the Treasury as a miscellaneous receipt.

JURISDICTION AND VENUE OF ACTIONS

Sec. 8. For the purpose of any civil action which may be brought within the United States, its territories or possessions, or the Commonwealth of Puerto Rico, by or against the Bank in accordance with the agreement, the Bank shall be deemed to be an inhabitant of the Federal judicial district in which its principal office or agency in the United States is located, and any such action to which the Bank shall be a party shall be deemed to arise under the laws of the United States, and the district courts of the United States, including the courts enumerated in title 28, section 460, United States Code, shall have original jurisdiction of any such action. When the Bank is defendant in any action in a State court, it may, at any time before the trial thereof, remove such action into the direct court of the United States for the proper district by following the procedure for removal of causes otherwise provided by law.

STATUS, IMMUNITIES, AND PRIVILEGES

Sec. 9. The agreement, and particularly articles 49 through 56, shall have full force and effect in the United States, its territories and possessions, and the Commonwealth of Puerto Rico, upon acceptance of membership by the United States in, and the establishment of, the Bank. The President, at the time of deposit of the instrument of acceptance of membership by the United States in the Bank, shall also deposit a declaration that the United States retains for itself and its political subdivisions the right to tax salaries and emoluments paid by the Bank to its citizens or nationals.

SECURITIES ISSUED BY BANK AS INVESTMENT SECURITIES FOR NATIONAL BANKS

Sec. 10. The last sentence of paragraph 7 of section 5136 of the Revised Statutes, as amended (12 U.S.C. 24), is amended by striking the word "or" after the words "International Bank for Reconstruction and Development" and inserting a comma in lieu thereof, and by in-

serting after the words "the Inter-American Development Bank" the words "or the Asian Development Bank".

SECURITIES ISSUED BY BANK AS EXEMPT SECURITIES; REPORT FILED WITH SECURITIES AND EXCHANGE COMMISSION

Sec. 11. (a) Any securities issued by the Bank (including any guarantee by the Bank, whether or not limited in scope) in connection with raising of funds for inclusion in the Bank's ordinary capital resources as defined in article 7 of the agreement and any securities guaranteed by the Bank as to both principal and interest to which the commitment in article 6, section 5, of the agreement is expressly applicable, shall be deemed to be exempted securities within the meaning of paragraph (a) (2) of section 3 of the Act of May 27, 1933, as amended (15 U.S.C. 77c), and paragraph (a) (12) of section 3 of the Act of June 6, 1934, as amended (15 U.S.C. 78c). The Bank shall file with the Securities and Exchange Commission such annual and other reports with regard to such securities as the Commission shall determine to be appropriate in view of the special character of the Bank and its operations and necessary in the public interest or for the protection of investors.

(b) The Securities and Exchange Commission, acting in consultation with such agency or officer as the President shall designate, is authorized to suspend the provisions of subsection (a) at any time as to any or all securities issued or guaranteed by the Bank during the period of such suspension. The Commission shall include in its annual reports to Congress such information as it shall deem advisable with regard to the operations and effect of this section and in connection therewith shall include any views submitted for such purpose by any association of dealers registered with the Commission.

Sec. 12.² (a) Subject to the provisions of this Act, the United States Governor of the Bank is authorized to enter into an agreement with the Bank providing for a United States contribution of \$100,000,000 to the Bank in two annual installments of \$60,000,000 and \$40,000,000, beginning in fiscal year 1972. This contribution is referred to hereinafter in this Act as the "United States Special Resources".

(b) The United States Special Resources shall be made available to the Bank pursuant to the provisions of this Act and article 19 of the Articles of Agreement of the Bank, and in a manner consistent with the Bank's Special Funds Rules and Regulations.

Sec. 13.² (a) The United States Special Resources shall be used to finance specific high priority development projects and programs in developing member countries of the Bank with emphasis on such projects and programs in the Southeast Asia region.

(b) The United States Special Resources shall be used by the Bank only for—

(1) making development loans on terms which may be more flexible and bear less heavily on the balance of payments than those established by the Bank for its ordinary operations; and

(2) providing technical assistance credits on a reimbursable basis.

² Section 12 through 19 were added by Public Law 92-245, 86 Stat. 59, approved March 10, 1972.

(c) (1) The United States Special Resources may be expended by the Bank only for procurement in the United States of goods produced in, or services supplied from, the United States, except that the United States Governor, in consultation with the National Advisory Council on International Monetary and Financial Policies, may allow eligibility for procurement in other member countries from the United States Special Resources if he determines that such procurement eligibility would materially improve the ability of the Bank to carry out the objectives of its special funds resources and would be compatible with the international financial position of the United States.

(2) The United States Special Resources may be used to pay for administrative expenses arising from the use of the United States Special Resources, but only to the extent such expenses are not covered from the Bank's service fee or income from use of United States Special Resources.

(d) All financing of programs and projects by the Bank from the United States Special Resources shall be repayable to the Bank by the borrowers in United States dollars.

Sec. 14.² (a) The letters of credit provided for in section 15 shall be issued to the Bank only to the extent that at the time of issuance the cumulative amount of the United States Special Resources provided to the Bank (A) constitute a minority of all special funds contributions to the Bank, and (B) are no greater than the largest cumulative contribution of any other single country contributing to the special funds of the Bank.

(b) The United States Governor of the Bank shall give due regard to the principles of (A) utilizing all special funds resources on an equitable basis, and (B) significantly shared participation by other contributors in each special fund to which United States Special Resources are provided.

Sec. 15.² The United States Special Resources will be provided to the Bank in the form of a nonnegotiable, noninterest-bearing, letter of credit which shall be payable to the Bank at par value on demand to meet the cost of eligible goods and services, and administrative costs authorized pursuant to section 13(c) of this Act.

Sec. 16.² The United States shall have the right to withdraw all or part of the United States Special Resources and any accrued resources derived therefrom under the procedures provided for in section 8.03 of the Special Funds Rules and Regulations of the Bank.

Sec. 17.² For the purpose of providing United States Special Resources to the Bank there is hereby authorized to be appropriated \$100,000,000³ all of which shall remain available until expended.

Sec. 18.² The President shall instruct the United States Executive Director of the Asian Development Bank to vote against any loan or other utilization of the funds of the Bank for the benefit of any country which has—

(1) nationalized or expropriated or seized ownership or control of property owned by any United States citizen or by any corporation, partnership, or association not less than 50 per centum of which is beneficially owned by United States citizens;

³ Sec. 28 of Public Law 93-189 (87 Stat. 732) struck out \$80,000,000 for fiscal year 1972 and \$40,000,000 for fiscal year 1973 and inserted \$100,000,000.

(2) taken steps to repudiate or nullify existing contracts or agreements with any United States citizen or any corporation, partnership, or association not less than 50 per centum of which is beneficially owned by United States citizens; or

(3) imposed or enforced discriminatory taxes or other exactions, or restrictive maintenance or operational conditions, or has taken other actions, which have the effect of nationalizing, expropriating, or otherwise seizing ownership or control of property so owned;

unless the President determines that (A) an arrangement for prompt, adequate, and effective compensation has been made, (B) the parties have submitted the dispute to arbitration under the rules of the Convention for the Settlement of Investment Disputes, or (C) good faith negotiations are in progress aimed at providing prompt, adequate, and effective compensation under the applicable principles of international law.

Sec. 19.² The Secretary of the Treasury shall instruct the United States Executive Director of the Asian Development Bank to vote against any loan or other utilization of the funds of the Bank for the benefit of any country with respect to which the President has made a determination, and so notified the Secretary of the Treasury, that the government of such country has failed to take adequate steps to prevent narcotic drugs and other controlled substances (as defined by the Comprehensive Drug Abuse Prevention and Control Act of 1970) produced or processed, in whole or in part, in such country, or transported through such country, from being sold illegally within the jurisdiction of such country to United States Government personnel or their dependents, or from entering the United States unlawfully. Such instruction shall continue in effect until the President determines, and so notifies the Secretary of the Treasury, that the government of such country has taken adequate steps to prevent such sale or entry of narcotic drugs and other controlled substances.

Sec. 20.⁴ (a) The United States Governor of the Bank is authorized to subscribe on behalf of the United States to thirty thousand additional shares of the capital stock of the Bank in accordance with and subject to the terms and conditions of Resolution Numbered 46 adopted by the Bank's Board of Governors on November 30, 1971.

(b) In order to pay for the increase in the United States subscription to the Bank provided for in this section, there is hereby authorized to be appropriated without fiscal year limitation \$361,904,726 for payment by the Secretary of the Treasury.⁵

Sec. 21. (a)⁴ The United States Governor of the Bank is hereby authorized to agree to contribute on behalf of the United States \$50,000,000 to the special funds of the Bank. This contribution shall be made available to the Bank pursuant to the provisions of article 19 of the articles of agreement of the Bank.

(b) In order to pay for the United States contribution to the special funds, there is hereby authorized to be appropriated without

⁴ Sections 20 and 21 were added by Public Law 93-537, 88 Stat. 1735, approved December 22, 1974.

⁵ The Foreign Assistance Appropriations Act, 1977 provided \$90,477,000, to remain available until expended, for payment of the third and final installment by the U.S. of the subscription.

fiscal year limitation \$50,000,000 for payment by the Secretary of the Treasury.⁶

Sec. 22.⁷ (a) The United States Governor of the Bank is authorized to subscribe on behalf of the United States to sixty-seven thousand and five hundred additional shares of the capital stock of the Bank; *Provided, however,* That any subscription to additional shares shall be made only after the amount required for such subscription has been appropriated.

(b) In order to pay for the increase in the United States subscription to the Bank provided for in this section, there are hereby authorized to be appropriated without fiscal year limitation \$814,286,250 for payment by the Secretary of the Treasury.⁸

Sec. 23.⁷ (a) The United States Governor of the Bank is hereby authorized to contribute on behalf of the United States \$180,000,000 to the Asian Development Fund, a special fund of the Bank: *Provided, however,* That any commitment to make such contribution shall be made subject to obtaining the necessary appropriations.

(b) In order to pay for the United States contribution to the Asian Development Fund provided for in this section, there are hereby authorized to be appropriated without fiscal year limitation \$180,000,000 for payment by the Secretary of the Treasury.⁸

⁶ The Supplemental Appropriations Act, 1977 (91 Stat. 67) provided \$25,000,000, to remain available until expended, for payment of the U.S. share of the initial resource mobilization of the Asian Development Fund.

⁷ Sections 22 and 23 were added by Sec. 501 of Public Law 95-118 (91 Stat. 1068).

⁸ The Foreign Assistance Appropriations Act, 1978 states:

"For payment to the Asian Development Bank by the Secretary of the Treasury of the first installment of (1) the United States share of the increase in subscriptions to the (a) paid-in capital stock, and (b) callable capital stock, and (2) the United States contribution to the increase in resources of the Asian Development Fund \$217,500,000, to remain available until expended: *Provided,* That no such payment may be made while the United States Director to the Bank is compensated by the Bank at a rate which, together with whatever compensation such Director receives from the United States, is in excess of the rate provided for an individual occupying a position at level IV of the Executive Schedule under section 5315 of title 5, United States Code, or while any alternate United States Director to the Bank is compensated by the Bank in excess of the rate provided for an individual occupying a position at level V of the Executive Schedule under section 5316 of title 5, United States Code."

This Act also expresses the sense of the Senate that the U.S. share of contributions to future replenishments of the Bank should not exceed 16.3% of the paid-in capital or callable capital, and 22.2% of the Asian Development Fund.

13. African Development Fund Act, as amended

Partial text of Public Law 94-302 [H.R. 9721], 90 Stat. 591, approved May 31, 1976, as amended by Public Law 95-118 [H.R. 5262], 91 Stat. 1067 at 1069, approved October 3, 1977

AN ACT To provide for increased participation by the United States in the Inter-American Development Bank, to provide for the entry of nonregional members and the Bahamas and Guyana in the Inter-American Development Bank, to provide for the participation of the United States in the African Development Fund, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

* * * * *

TITLE II—AFRICAN DEVELOPMENT FUND

SEC. 201.¹ This Title may be cited as the "African Development Fund Act".

SEC. 202.² The President is hereby authorized to accept participation for the United States in the African Development Fund (hereinafter referred to as the "Fund") provided for by the agreement establishing the Fund (hereinafter referred to as the "agreement") deposited in the Archives of the United Nations.

SEC. 203.³ (a) The President, by and with the advice and consent of the Senate, shall appoint a Governor, and an Alternate Governor, of the Fund.

(b) The Governor, or in his absence the Alternate Governor, on the instructions of the President, shall cast the votes of the United States for the Director to represent the United States in the Fund. The Director representing the United States and his Alternate, if they are citizens of the United States, may, in the discretion of the President, receive such compensation, allowances, and other benefits not exceeding those authorized for a Chief of Mission, class 2, within the meaning of the Foreign Service Act of 1946, as amended.⁴

SEC. 204.⁵ The provisions of section 4 of the Bretton Woods Agreements Act, as amended (22 U.S.C. 286b),⁶ shall apply with respect to the Fund to the same extent as with respect to the International Bank for Reconstruction and Development and the International Monetary Fund. Reports with respect to the Fund under paragraphs (5) and (6) of subsection 4 of said Act, as amended, shall be included in the first report made thereunder after the United States accepts participation in the Fund.

¹ 22 U.S.C. 290g note.

² 22 U.S.C. 290g.

³ 22 U.S.C. 290g-1.

⁴ For text, see p. 504.

⁵ 22 U.S.C. 290g-2.

⁶ For text, see page 197.

SEC. 205.⁷ Unless Congress by law authorizes such action, neither the President nor any person or agency shall, on behalf of the United States:

(a) agree to an increase in the subscription of the United States to the Fund;

(b) vote for or agree to any amendment of the agreement which increases the obligations of the United States, or which would change the purpose of functions of the Fund; or

(c) make a loan or provide other financing to the Fund, except that funds for technical assistance may be provided to the Fund by a United States agency created pursuant to an Act of Congress which is authorized by law to provide funds to international organizations.

SEC. 206.⁸ (a) There is hereby authorized to be appropriated without fiscal year limitation, as the United States subscription, \$25,000,000 to be paid by the Secretary of the Treasury to the Fund in three annual installments of \$9,000,000, \$8,000,000, and \$8,000,000.⁹

(b) Any repayment or distribution of moneys from the Fund to the United States shall be covered into the Treasury as a miscellaneous receipt.

SEC. 207.¹⁰ Any Federal Reserve bank which is requested to do so by the President shall act as a depository for the Fund, and the Board of Governors of the Federal Reserve System shall supervise and direct the carrying out of these functions by the Federal Reserve banks.

SEC. 208.¹¹ For the purpose of any civil action which may be brought within the United States, its territories or possessions, or the Commonwealth of Puerto Rico, by or against the Fund in accordance with the agreement, the Fund shall be deemed to be an inhabitant of the Federal judicial district in which its principal office or agency appointed for the purpose of accepting service or notice of service is located, and any such action to which the Fund shall be party shall be deemed to arise under the laws of the United States, and the district courts of the United States (including the courts enumerated in title 28, section 460, United States Code) shall have original jurisdiction of any such action. When the Fund is defendant in any action in a State court, it may, at any time before the trial thereof, remove such action into the district court of the United States for the proper district by following the procedure for removal of causes otherwise provided by law.

SEC. 209.¹² The agreement, including without limitation articles 41 through 50, shall have full force and effect in the United States, its territories and possessions, and the Commonwealth of Puerto Rico, upon the acceptance of participation by the United States in, and the entry into force of, the Fund. The President, at the time of deposit of the instrument of acceptance of participation of the United States

⁷ 22 U.S.C. 290g-3.

⁸ 22 U.S.C. 290g-4.

⁹ Foreign Assistance Appropriations Act, 1978 states:

"For payment by the Secretary of the Treasury for the final installment of the initial United States contribution to the African Development Fund as authorized by the Act of May 31, 1976 (Public Law 94-302), \$10,000,000, to remain available until expended."

This Act also expresses the sense of the Senate that the U.S. share of contributions to future replenishments of the Bank should not exceed 10.6% for the Special Fund.

¹⁰ 22 U.S.C. 290g-5.

¹¹ 22 U.S.C. 290g-6.

¹² 22 U.S.C. 290g-7.

in the Fund, shall also deposit a declaration that the United States retains for itself and its political subdivisions the right to tax salaries and emoluments paid by the Fund to its citizens or nationals and may deposit a declaration providing for reservations on other matters set forth in article 58.

SEC. 210.¹³ The President shall instruct the United States Governor of the Fund to cause the Executive Director representing the United States in the Fund to cast the votes of the United States against any loan or other utilization of the funds of the Fund for the benefit of any country which has—

(1) nationalized or expropriated or seized ownership or control of property owned by any United States citizen or by any corporation, partnership, or association not less than 50 per centum of which is beneficially owned by United States citizens; or

(2) taken steps to repudiate or nullify existing contracts or agreements with any United States citizen or any corporation, partnership, or association not less than 50 per centum of which is beneficially owned by United States citizens; or

(3) imposed or enforced discriminatory taxes or other exactions, or restrictive maintenance or operational conditions, or has taken other actions, which have the effect of nationalizing, expropriating, or otherwise seizing ownership or control of property so owned;

unless the President determines that (A) an arrangement for prompt, adequate, and effective compensation has been made, (B) the parties have submitted the dispute to arbitration under the rules of the Convention for the Settlement of Investment Disputes,¹⁴ or (C) good faith negotiations are in progress aimed at providing prompt, adequate, and effective compensation under the applicable principles of international law.

SEC. 211. * * * [Repealed—1977]¹⁵

SEC. 212.¹⁶ (a) The United States Governor is hereby authorized to contribute on behalf of the United States \$50,000,000 to the African Development Fund, which would represent an additional United States contribution to the first replenishment. The Secretary of the Treasury is directed to begin discussions with other donor nations to the African Development Fund for the purpose of setting amounts and of reviewing and possibly changing the voting structure within the Fund: *Provided, however*, That any commitment to make such contribution shall be made subject to obtaining the necessary appropriations.

(b) In order to pay for the United States contribution to the African Development Fund provided for in this section there are authorized to be appropriated without fiscal year limitation \$50,000,000 for payment by the Secretary of the Treasury.

¹³ 22 U.S.C. 290g-8.

¹⁴ For text see Vol. III, Sec. H.

¹⁵ Sec. 211, which directed the U.S. Governor of the Fund to vote against any loans or assistance to any country engaging in violations of human rights, was repealed by Sec. 702 of Public Law 95-118 (91 Stat. 1070). For new references to the African Development Fund and human rights, see Title VII of Public Law 95-118 (page 246).

¹⁶ 22 U.S.C. 290g-10. Sec. 212 was added by Sec. 601 of Public Law 95-118 (91 Stat. 1069).

14. International Financial Institutions

Partial text of Public Law 95-118 [H.R. 5262], 91 Stat. 1067, approved
October 3, 1977¹

NOTE.—Except for the provisions noted below, this Act consists of amendments to the Bretton Woods Agreements Act, International Finance Corporation Act, International Development Association Act, Asian Development Bank Act, African Development Fund Act, and the Inter-American Development Bank Act.

AN ACT To provide for increased participation by the United States in the International Bank for Reconstruction and Development, the International Development Association, the International Finance Corporation, the Asian Development Bank and the Asian Development Fund, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I—PURPOSE AND POLICY; DECLARATION OF CONGRESSIONAL INTENT IN RESPECT TO CONTINUED PARTICIPATION OF THE UNITED STATES GOVERNMENT IN INTERNATIONAL FINANCIAL INSTITUTIONS FOSTERING ECONOMIC DEVELOPMENT IN LESS DEVELOPED COUNTRIES

Sec. 101. (a) It is the sense of the Congress that—

(1) for humanitarian, economic, and political reasons, it is in the national interest of the United States to assist in fostering economic development in the less developed countries of this world;

(2) the development-oriented international financial institutions have proved themselves capable of playing a significant role in assisting economic development by providing to less developed countries access to capital and technical assistance and soliciting from them maximum self-help and mutual cooperation;

(3) this has been achieved with minimal risk of financial loss to contributing countries;

(4) such institutions have proved to be an effective mechanism for sharing the burden among developed countries of stimulating economic development in the less developed world; and

(5) although continued United States participation in the international financial institutions is an important part of efforts

¹ 22 U.S.C. 262c-262g.

by the United States to assist less developed countries, more of this burden should be shared by other developed countries. As a step in that direction, in future negotiations, the United States should work toward aggregate contributions to future replenishments to international financial institutions covered by this Act not to exceed 25 per centum.

(b) The Congress recognizes that economic development is a long-term process needing funding commitments to international financial institutions. It also notes that the availability of funds for the United States contribution to international financial institutions is subject to the appropriations process.

* * * * *

TITLE VII—HUMAN RIGHTS

Sec. 701.² (a) The United States Government, in connection with its voice and vote in the International Bank for Reconstruction and Development, the International Development Association, the International Finance Corporation, the Inter-American Development Bank, the African Development Fund, and the Asian Development Bank, shall advance the cause of human rights, including by seeking to channel assistance toward countries other than those whose governments engage in—

(1) a consistent pattern of gross violations of internationally recognized human rights, such as torture or cruel, inhumane, or degrading treatment or punishment, prolonged detention without charges, or other flagrant denial to life, liberty, and the security of person; or

(2) provide refuge to individuals committing acts of international terrorism by hijacking aircraft.

(b) Further, the Secretary of the Treasury shall instruct each Executive Director of the above institutions to consider in carrying out his duties:

(1) specific actions by either the executive branch or the Congress as a whole on individual bilateral assistance programs because of human rights considerations;

(2) the extent to which the economic assistance provided by the above institutions directly benefit the needy people in the recipient country;

(3) whether the recipient country has detonated a nuclear device or is not a State Party to the Treaty on Nonproliferation of Nuclear Weapons or both; and

(4) in relation to assistance for the Socialist Republic of Vietnam, the People's Democratic Republic of Laos, and Democratic Kampuchea (Cambodia), the responsiveness of the governments of such countries in providing a more substantial accounting of Americans missing in action.

(c) The Secretaries of State and Treasury shall report annually to the Speaker of the House of Representatives and the President of the

² 22 U.S.C. 262g.

Senate on the progress toward achieving the goals of this title, including the listing required in subsection (d).

(d) The United States Government, in connection with its voice and vote in the institutions listed in subsection (a), shall seek to channel assistance to projects which address basic human needs of the people of the recipient country. The annual report required under subsection (c) shall include a listing of categories of such assistance granted, with particular attention to categories that address basic human needs.

(e) In determining whether a country is in gross violation of internationally recognized human rights standards, as defined by the provisions of subsection (a), the United States Government shall give consideration to the extent of cooperation of such country in permitting an unimpeded investigation of alleged violations of internationally recognized human rights by appropriate international organizations including, but not limited to, the International Committee of the Red Cross, Amnesty International, the International Commission of Jurists, and groups or persons acting under the authority of the United Nations or the Organization of American States.

(f) The United States Executive Directors of the institutions listed in subsection (a) are authorized and instructed to oppose any loan, any extension of financial assistance, or any technical assistance to any country described in subsection (a) (1) or (2), unless such assistance is directed specifically to programs which serve the basic human needs of the citizens of such country.³

Sec. 702. Section 28 of the Inter-American Development Bank Act, as amended (22 U.S.C. 283y), section 211 of the Act of May 31, 1976 (22 U.S.C. 290g-9), and section 15 of the International Development Association Act, as amended (22 U.S.C. 284m), are repealed.

Sec. 703.⁴ (a) The Secretary of State and the Secretary of the Treasury shall initiate a wide consultation designed to develop a viable standard for the meeting of basic human needs and the protection of human rights and a mechanism for acting together to insure that the rewards of international economic cooperation are especially available to those who subscribe to such standards and are seen to be moving toward making them effective in their own systems of governance.

(b) Not later than one year after the date of enactment of this Act, the Secretary of State and the Secretary of the Treasury shall report to the President of the Senate and the Speaker of the House of Representatives on the progress made in carrying out this section.

Sec. 704. The President shall direct the United States Executive Directors of such international financial institutions to take all appropriate actions to keep the salaries and benefits of the employees of such institutions to levels comparable to salaries and benefits of employees of private business and the United States Government in comparable positions.

TITLE VIII—LIGHT CAPITAL TECHNOLOGY

Sec. 801. (a) The United States Government, in connection with its voice and vote in the International Bank for Reconstruction and

³ See also Sec. 507 of the Foreign Assistance Appropriations Act, 1978 (page 216) for a further statement regarding human rights and international financial institutions.

⁴ 22 U.S.C. 262c note.

Development, the International Development Association, the International Finance Corporation, the Inter-American Development Bank, the African Development Fund, and the Asian Development Bank, shall promote the development and utilization of light capital technologies, otherwise known as intermediate, appropriate, or village technologies, by such international institutions as major facets of their development strategies, with major emphasis on the production and conservation of energy through light capital technologies.

(b) The Secretary of the Treasury shall report to the Congress not later than six months after the date of enactment of this section and annually thereafter on the progress toward achieving the goals of this title. Each report shall include a separate and comprehensive discussion, with examples of specific projects and policies, of each institution's activity in light capital technologies and of United States efforts to carry out subsection (a) with respect to each institution.

TITLE IX—HUMAN NUTRITION IN DEVELOPING COUNTRIES

Sec. 901. (a) The Congress declares it to be the policy of the United States, in connection with its voice and vote in the International Bank for Reconstruction and Development, the International Development Association, the International Finance Corporation, the Inter-American Development Bank, the African Development Fund, the Asian Development Fund, and the Asian Development Bank, to combat hunger and malnutrition and to encourage economic development in the developing countries, with emphasis on assistance to those countries that are determined to improve their own agricultural production, by seeking to channel assistance for agriculturally related development to projects that would aid in fulfilling domestic food and nutrition needs and in alleviating hunger and malnutrition in the recipient country. The United States representatives to the institutions named in this section shall oppose any loan or other financial assistance for establishing or expanding production for export of palm oil, sugar, or citrus crops if such loan or assistance will cause injury to United States producers of the same, similar, or competing agricultural commodity.

(b) The Secretaries of State and Treasury shall report annually to the Speaker of the House of Representatives and the President of the Senate on the progress towards achieving the goals of this title.

TITLE X—EFFECTIVE DATE

Sec. 1001.⁵ This Act shall take effect on the date of its enactment, except that no funds authorized to be appropriated by any amendment contained in title II, III, IV, V, or VI may be available for use or obligation prior to October 1, 1977.

⁵ 22 U.S.C. 2821 note.

15. Convention on the Settlement of Investment Disputes Act of 1966

Public Law 89-532 [S. 3498], 80 Stat. 344, approved August 11, 1966

AN ACT To facilitate the carrying out of the obligations of the United States under the Convention of the Settlement of Investment Disputes Between States and Nationals of Other States, signed on August 27, 1965, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Convention on the Settlement of Investment Disputes Act of 1966".

Sec. 2.¹ The President may make such appointments of representatives and panel members as may be provided for under the convention.

Sec. 3.² (a) An award of an arbitral tribunal rendered pursuant to chapter IV of the convention shall create a right arising under a treaty of the United States. The pecuniary obligations imposed by such an award shall be enforced and shall be given the same full faith and credit as if the award were a final judgment of a court of general jurisdiction of one of the several States. The Federal Arbitration Act (9 U.S.C. 1 et seq.) shall not apply to enforcement of awards rendered pursuant to the convention.

(b) The district courts of the United States (including the courts enumerated in title 28, United States Code, section 460) shall have exclusive jurisdiction over actions and proceedings under paragraph (a) of this section, regardless of the amount in controversy.

¹ 22 U.S.C. 1650.

² 22 U.S.C. 1650a

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I. ENERGY AND NATURAL RESOURCES

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THEORY AND PRACTICE

CHAPTER I

1. The first part of the book is devoted to a general survey of the subject.
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3. The third part is devoted to a study of the various methods of the subject.
4. The fourth part is devoted to a study of the various applications of the subject.
5. The fifth part is devoted to a study of the various results of the subject.
6. The sixth part is devoted to a study of the various problems of the subject.
7. The seventh part is devoted to a study of the various theories of the subject.
8. The eighth part is devoted to a study of the various practices of the subject.
9. The ninth part is devoted to a study of the various principles of the subject.
10. The tenth part is devoted to a study of the various laws of the subject.

1. Atomic Energy Act and Related Materials

a. Atomic Energy Act of 1954 as amended

Partial text of Public Law 83-703 [H.R. 9757], 68 Stat. 919, approved August 30, 1954¹

AN ACT To amend the Atomic Energy Act of 1946, as amended, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Atomic Energy Act of 1946, as amended, is amended to read as follows:

“ATOMIC ENERGY ACT OF 1954

NOTE.—The Energy Reorganization Act of 1974 (Public Law 93-438, 88 Stat. 1233, approved October 11, 1974; 42 U.S.C. 5801-5891) repealed Sections 21 and 22 abolishing the Atomic Energy Commission created thereunder and vesting its licensing and related regulatory authority of facilities under chapter 6, 7, 8, and 10 in a new Nuclear Regulatory Commission and transferring all its other functions to a new Energy Research and Development Administration.

“CHAPTER 1. DECLARATION, FINDINGS, AND PURPOSE

“SECTION 1. DECLARATION.—Atomic energy is capable of application for peaceful as well as military purposes. It is therefore declared to be the policy of the United States that—

“a. the development, use, and control of atomic energy shall be directed so as to make the maximum contribution to the general welfare, subject at all times to the paramount objective of making the maximum contribution to the common defense and security; and

“b. the development, use, and control of atomic energy shall be directed so as to promote world peace, improve the general welfare, increase the standard of living, and strengthen free competition in private enterprise.

¹ 42 U.S.C. 2011-2281. Amended by Public Law 84-337 (69 Stat. 630); Public Law 84-722 (70 Stat. 553); Public Law 84-1006 (70 Stat. 1069); Public Law 85-14 (71 Stat. 11); Public Law 85-79 (71 Stat. 274); Public Law 85-162 (71 Stat. 410); Public Law 85-177 (71 Stat. 455); Public Law 85-256 (71 Stat. 576); Public Law 85-287 (71 Stat. 612); Public Law 85-479 (72 Stat. 276); Public Law 85-507 (72 Stat. 337); Public Law 85-602 (72 Stat. 525); Public Law 85-681 (72 Stat. 632); Public Law 85-744 (72 Stat. 837); Public Law 86-43 (73 Stat. 73); Public Law 86-50 (73 Stat. 87); Public Law 86-300 (73 Stat. 574); Public Law 86-373 (73 Stat. 688); Public Law 87-206 (75 Stat. 476); Public Law 87-615 (76 Stat. 409); Public Law 87-793 (76 Stat. 864); Public Law 88-72 (77 Stat. 88); Public Law 88-294 (78 Stat. 172); Public Law 88-394 (78 Stat. 376); Public Law 88-426 (78 Stat. 423); Public Law 88-448 (78 Stat. 490); Public Law 88-489 (78 Stat. 602); Public Law 89-135 (79 Stat. 551); Public Law 89-210 (79 Stat. 855); Public Law 89-645 (80 Stat. 891); Public Law 90-190 (81 Stat. 577); Public Law 91-161 (83 Stat. 444); Public Law 91-452 (84 Stat. 930); Public Law 91-560 (84 Stat. 1472); Public Law 92-84 (85 Stat. 307); Public Law 92-307 (86 Stat. 191); Public Law 92-314 (86 Stat. 227); Public Law 93-377 (88 Stat. 472); Public Law 93-438 (88 Stat. 1233); Public Law 93-485 (88 Stat. 1460); Public Law 93-514 (88 Stat. 1611); Public Law 94-197 [H.R. 8631], 89 Stat. 1111, approved December 31, 1975; and by Public Law 95-110 [S. 1153], 91 Stat. 884, approved September 20, 1977.

"SEC. 2. FINDINGS.²—The Congress of the United States hereby makes the following findings concerning the development, use, and control of atomic energy:

"a. The development, utilization, and control of atomic energy for military and for all other purposes are vital to the common defense and security.

"c.³ The processing and utilization of source, byproduct, and special nuclear material affect interstate and foreign commerce and must be regulated in the national interest.

"d. The processing and utilization of source, byproduct, and special nuclear material must be regulated in the national interest and in order to provide for the common defense and security and to protect the health and safety of the public.

"e. Source and special nuclear material, production facilities, and utilization facilities are affected with the public interest, and regulation by the United States of the production and utilization of atomic energy and of the facilities used in connection therewith is necessary in the national interest to assure the common defense and security and to protect the health and safety of the public.

"f. The necessity for protection against possible interstate damage occurring from the operation of facilities for the production or utilization of source or special nuclear material places the operation of those facilities in interstate commerce for the purposes of this Act.

"g. Funds of the United States may be provided for the development and use of atomic energy under conditions which will provide for the common defense and security and promote the general welfare.

"i.⁴ In order to protect the public and to encourage the development of the atomic energy industry, in the interest of the general welfare and of the common defense and security, the United States may make funds available for a portion of the damages suffered by the public from nuclear incidents, and may limit the liability of those persons liable for such losses.⁵

"SEC. 3. PURPOSE.—It is the purpose of this Act to effectuate the policies set forth above by providing for—

"a. a program of conducting, assisting, and fostering research and development in order to encourage maximum scientific and industrial progress;

"b. a program for the dissemination of unclassified scientific and technical information and for the control, dissemination, and declassification of Restricted Data, subject to appropriate safeguards, so as to encourage scientific and industrial progress;

² Sec. 20 of Public Law 88-489 (78 Stat. 602) (1964), the Private Ownership of Special Nuclear Materials Act, reads as follows:

"Nothing in this Act shall be deemed to diminish existing authority of the United States, or of the Atomic Energy Commission under the Atomic Energy Act of 1954, as amended, to regulate source, byproduct, and special nuclear material and production and utilization facilities, or to control such materials and facilities exported from the United States by imposition of governmental guarantees and security safeguards with respect thereto, in order to assure the common defense and security and to protect the health and safety of the public, or to reduce the responsibility of the Atomic Energy Commission to achieve such objectives."

³ Public Law 88-489 (78 Stat. 602) (1964), sec. 1, deleted subsec. 2 b. Subsec. 2 b. read as follows:

"b. In permitting the property of the United States to be used by others, such use must be regulated in the national interest and in order to provide for the common defense and security and to protect the health and safety of the public."

⁴ Public Law 88-489 (78 Stat. 602) (1964), sec. 2, deleted subsec. 2 h. Subsec. 2 h. read as follows:

"h. It is essential to the common defense and security that title to all special nuclear material be in the United States while such special nuclear material is within the United States."

⁵ Public Law 85-256 (71 Stat. 576) (1957), sec. 1, added subsec. 1.

"c. a program for Government control of the possession, use, and production of atomic energy and special nuclear material, whether owned by the Government or others, so directed as to make the maximum contributions to the common defense and security and the national welfare, and to provide continued assurance of the Government's ability to enter into and enforce agreements with nations or groups of nations for the control of special nuclear materials and atomic weapons.⁶

"d. a program to encourage widespread participation in the development and utilization of atomic energy for peaceful purposes to the maximum extent consistent with the common defense and security and with the health and safety of the public;

"e. a program of international cooperation to promote the common defense and security and to make peaceful applications of atomic energy as widely as expanding technology and considerations of the common defense and security will permit; and

"f. a program of administration which will be consistent with the foregoing policies and programs, with international arrangements, and with agreements for cooperation, which will enable the Congress to be currently informed so as to take further legislative action as may be appropriate.

"CHAPTER 2. DEFINITIONS

"SEC. 11. DEFINITIONS.—The intent of Congress in the definitions as given in this section should be construed from the words or phrases used in the definitions. As used in this Act :

"a. The term 'agency of the United States' means the executive branch of the United States, or any Government agency, or the legislative branch of the United States, or any agency, committee, commission, office, or other establishment in the legislative branch, or the judicial branch of the United States, or any office, agency, committee, commission, or other establishment in the judicial branch.

"b. The term 'agreement for cooperation' means any agreement with another nation or regional defense organization authorized or permitted by sections 54, 57, 64, 82, 91 c., 103, 104, or 144, and made pursuant to section 123.⁷

"c. The term 'atom energy' means all forms of energy released in the course of nuclear fission or nuclear transformation.

"d. The term 'atomic weapon' means any device utilizing atomic energy, exclusive of the means for transporting or propelling the device (where such means is a separable and divisible part of the device), the principal purpose of which is for use as, or for development of, a weapon, a weapon prototype, or a weapon test device.

"e. The term 'byproduct material' means any radioactive material (except special nuclear material) yielded in or made radioactive by exposure to the radiation incident to the process of producing or utilizing special nuclear material.

"f. The term 'Commission' means the Atomic Energy Commission.

⁶ Public Law 88-489 (78 Stat. 602) (1964), sec. 3, amended this subsection. Before amendment it read :

"c. A program for Government control of the possession, use, and production of atomic energy and special nuclear material so directed as to make the maximum contribution to the common defense and security and the national welfare ;"

⁷ Public Law 87-206 (75 Stat. 475) (1961), sec. 2, amended this subsection by adding sec. 91 c.

"g. The term 'common defense and security' means the common defense and security of the United States.

"h. The term 'defense information' means any information in any category determined by any Government agency authorized to classify information, as being information respecting, relating to, or affecting the national defense.

"i. The term 'design' means (1) specifications, plans, drawings, blueprints, and other items of like nature; (2) the information contained therein; or (3) the research and development data pertinent to the information contained therein.

"j. The term 'extraordinary nuclear occurrence' means any event causing a discharge or dispersal of source, special nuclear, or by-product material from its intended place of confinement in amounts offsite, or causing radiation levels offsite, which the Commission determines to be substantial, and which the Commission determines has resulted or will probably result in substantial damages to persons offsite or property offsite. Any determination by the Commission that such an event has, or has not, occurred shall be final and conclusive, and no other official or any court shall have power or jurisdiction to review any such determination. The Commission shall establish criteria in writing setting forth the basis upon which such determination shall be made. As used in this subsection, 'offsite' means away from 'the location' or 'the contract location' as defined in the applicable Commission indemnity agreement, entered into pursuant to section 170.⁸

"k. The term 'financial protection' means the ability to respond in damages for public liability and to meet the costs of investigating and defending claims and settling suits for such damages.⁹

"l. The term 'Government agency' means any executive department, commission, independent establishment, corporation, wholly or partly owned by the United States of America which is an instrumentality of the United States, or any board, bureau, division, service, office, officer, authority, administration, or other establishment in the executive branch of the Government.

"m. The term 'indemnitor' means (1) any insurer with respect to his obligations under a policy of insurance furnished as proof of financial protection; (2) any licensee, contractor or other person who is obligated under any other form of financial protection, with respect to such obligations; and (3) the Commission with respect to any obligation undertaken by it in an indemnity agreement entered into pursuant to section 170.¹⁰

"n. The term 'international arrangement' means any international agreement hereafter approved by the Congress or any treaty during the time such agreement or treaty is in full force and effect, but does not include any agreement for cooperation.

"o. The term 'Joint Committee' means the Joint Committee on Atomic Energy.

"p. The term 'licensed activity' means an activity licensed pursuant to this Act and covered by the provisions of section 170. a.¹¹

⁸ Public Law 89-645 (80 Stat. 891) (1966), sec. 1, added subsec. j.

⁹ Public Law 85-256 (71 Stat. 576) (1957), sec. 3, added subsec. k.

¹⁰ Public Law 89-645 (80 Stat. 891) (1966), sec. 1, added subsec. m.

¹¹ Public Law 85-256 (71 Stat. 576) (1957), sec. 3, added subsec. p.

"q. The term 'nuclear incident' means any occurrence, including an extraordinary nuclear occurrence,¹² within the United States causing, within or outside the United States, bodily injury, sickness, disease, or death, or loss of or damage to property, or loss of use of property, arising out of or resulting from the radioactive, toxic, explosive, or other hazardous properties of source, special nuclear, or byproduct material: *Provided, however*, That as the term is used in subsection 170 l., it shall include any such occurrence outside of the United States: *And provided further*, That as the term is used in section 170 d., it shall include any such occurrence outside the United States if such occurrence involves source, special nuclear, or byproduct material by, and used by or under contract with, the United States: *And provided further*, That as the term is used in subsection 170 c., it shall include any such occurrence outside both the United States and any other nation if such occurrence arises out of or results from the radioactive, toxic, explosive, or other hazardous properties of source, special nuclear, or byproduct material licensed pursuant to chapters 6, 7, 8, and 10 of this Act, which is used in connection with the operation of a licensed stationary production or utilization facility or which moves outside the territorial limits of the United States in transit from one person licensed by the Commission to another person licensed by the Commission.¹³

"r. The term 'operator' means any individual who manipulates the controls of a utilization or production facility.

"s. The term 'person' means (1) any individual, corporation, partnership, firm, association, trust, estate, public or private institution, group, Government agency other than the Commission, any State or any political subdivision of, or any political entity within a State, any foreign government or nation or any political subdivision of any such government or nation, or other entity; and (2) any legal successor, representative, agent, or agency of the foregoing.

"t. The term 'person indemnified' means (1) with respect to a nuclear incident occurring within the United States or outside the United States as the term is used in subsection 170 c., and with respect to any other nuclear incident in connection with the design, development, construction, operation, repair, maintenance, or use of the nuclear ship Savannah, the person with whom an indemnity agreement is executed or who is required to maintain financial protection, and any other person who may be liable for public liability or (2) with respect to any other nuclear incident occurring outside the United States, the person with whom an indemnity agreement is executed and any other person who may be liable for public liability by reason of his activities under any contract with the Commission or any project to which indemnification under the provisions of subsection 170 d. has

¹² Public Law 89-645 (80 Stat. 891) (1966), sec. 1, amended this subsection by inserting the phrase "including an extraordinary nuclear occurrence."

¹³ Public Law 85-256 (71 Stat. 576) (1957), sec. 3, added subsec. q. Prior to amendment by Public Law 89-645 (see footnote 9, above) the subsection had been amended by Public Law 87-615 (76 Stat. 409) (1962), sec. 4. Before amendment it read: "o. The term 'nuclear incident' means any occurrence within the United States causing bodily injury, sickness, disease, or death, or loss of or damage to property, or for loss of use of property, arising out of or resulting from the radioactive, toxic, explosive, or other hazardous properties of source, special nuclear, or byproduct material: *Provided, however*, That as the term is used in subsection 170 l., it shall mean any such occurrence outside of the United States rather than within the United States." Public Law 94-197 (89 Stat. 1111) (1975), sec. 1, substituted "source, special nuclear, or byproduct material" for "a facility or device" in the second proviso and added the third proviso.

been extended or under any subcontract, purchase order or other agreement, of any tier, under any such contract or project.¹⁴

"u. The term 'produce', when used in relation to special nuclear material, means (1) to manufacture, make, produce, or refine special nuclear material; (2) to separate special nuclear material from other substances in which such material may be contained; or (3) to make or to produce new special nuclear material.

"v. The term 'production facility' means (1) any equipment or device determined by rule of the Commission to be capable of the production of special nuclear material in such quantity as to be of significance to the common defense and security, or in such manner as to affect the health and safety of the public; or (2) any important component part especially designed for such equipment or device as determined by the Commission.

"w. The term 'public liability' means any legal liability arising out of or resulting from a nuclear incident, except: (i) claims under State or Federal workmen's compensation acts of employees of persons indemnified who are employed at the site of and in connection with the activity where the nuclear incident occurs; (ii) claims arising out of an act of war; and (iii) whenever used in subsections 170 a., c., and k., claims for loss of, or damage to, or loss of use of property which is located at the site of and used in connection with the licensed activity which the nuclear incident occurs. 'Public liability' also includes damage to property of persons indemnified: *Provided*, That such property is covered under the terms of the financial protection required, except property which is located at the site of and used in connection with the activity where the nuclear incident occurs.¹⁵

"x. The term 'research and development' means (1) theoretical analysis, exploration, or experimentation; or (2) the extension of investigative findings and theories of a scientific or technical nature into practical application for experimental and demonstration purposes, including the experimental production and testing of models, devices equipment, materials, and processes.

"y. The term 'Restricted Data' means all data concerning (1) design, manufacture, or utilization of atomic weapons; (2) the production of special nuclear material; or (3) the use of special nuclear material in the production of energy, but shall not include data declassified or removed from the Restricted Data category pursuant to section 142.

"z. The term 'source material' means (1) uranium, thorium, or any other material which is determined by the Commission pursuant to the provisions of section 61 to be source material; or (2) ores containing one or more of the foregoing materials, in such concentration as the Commission may by regulation determine from time to time.

¹⁴ Public Law 85-256 (71 Stat. 576) (1957), sec. 3, added subsection t. Public Law 87-615 (76 Stat. 409) (1962), sec. 5, amended the subsection. Before amendment, it read: "r. The term 'person indemnified' means the person with whom an indemnity agreement is executed and any other person who may be liable for public liability." Public Law 94-197 (89 Stat. 1111) (1975), sec. 1, further amended the subsection.

¹⁵ Public Law 85-256 (71 Stat. 576) (1957), sec. 3, added subsection w. Public Law 87-206 (75 Stat. 475) (1961), sec. 3, amended the subsection. Before amendment it read:

"u. The term 'public liability' means any legal liability arising out of or resulting from a nuclear incident, except claims under State or Federal Workmen's Compensation Acts of employees of persons indemnified who are employed at the site of and in connection with the activity where the nuclear incident occurs, and except for claims arising out of an act of war. 'Public liability' also includes damage to property of persons indemnified: *Provided*, That such property is covered under the terms of the financial protection required, except property which is located at the site of and used in connection with the activity where the nuclear incident occurs."

"aa. The term 'special nuclear material' means (1) plutonium, uranium enriched in the isotope 233 or in the isotope 235, and any other material which the Commission, pursuant to the provisions of section 51, determines to be special nuclear material, but does not include source material; or (2) any material artificially enriched by any of the foregoing, but does not include source material.

"bb. The term 'United States' when used in a geographical sense includes all Territories and possessions of the United States, the Canal Zone and Puerto Rico.¹⁶

"cc. The term 'utilization facility' means (1) any equipment or device, except an atomic weapon, determined by rule of the Commission to be capable of making use of special nuclear material in such quantity as to be of significance to the common defense and security, or in such manner as to affect the health and safety of the public, or peculiarly adapted for making use of atomic energy in such quantity as to be of significance to the common defense and security, or in such manner as to affect the health and safety of the public; or (2) any important component part especially designed for such equipment or device as determined by the Commission.

* * * * *

CHAPTER 6. SPECIAL NUCLEAR MATERIAL

"SEC. 51. SPECIAL NUCLEAR MATERIAL.—The Commission may determine from time to time that other material is special nuclear material in addition to that specified in the definition as special nuclear material. Before making any such determination, the Commission must find that such material is capable of releasing substantial quantities of atomic energy and must find that the determination that such material is special nuclear material is in the interest of the common defense and security, and the President must have expressly assented in writing to the determination. The Commission's determination, together with the assent of the President, shall be submitted to the Joint Committee and a period of thirty days shall elapse while Congress is in session (in computing such thirty days, there shall be excluded the days on which either House is not in session because of an adjournment for more than three days) before the determination of the Commission may become effective: *Provided, however*, That the Joint Committee, after having received such determination, may by resolution in writing, waive the conditions of or all or any portion of such thirty-day period.

* * * * *

"SEC. 54.¹⁷ FOREIGN DISTRIBUTION OF SPECIAL NUCLEAR MATERIAL.—a. The Commission is authorized to cooperate with any nation or group of nations by distributing special nuclear material and to distribute such special nuclear material, pursuant to the terms of an agreement for cooperation to which such nation or group of nations is a party and which is made in accordance with section 123. Unless hereafter otherwise authorized by law the Commission shall be compensated for

¹⁶ Public Law 84-1006 (70 Stat. 1069) (1956), sec. 1, amended this definition. Before amendment it read:

"u. The term 'United States', when used in a geographical sense, includes all Territories and possessions of the United States, and the Canal Zone."

¹⁷ As amended and restated by Sec. 2 of Public Law 93-377 (88 Stat. 472).

special nuclear material so distributed at not less than the Commission's published charges applicable to the domestic distribution of such material, except that the Commission to assist and encourage research on peaceful uses or for medical therapy may so distribute without charge during any calendar year only a quantity of such material which at the time of transfer does not exceed in value \$10,000 in the case of one nation or \$50,000 in the case of any group of nations. The Commission may distribute to the International Atomic Energy Agency, or to any group of nations, only such amounts of special nuclear materials and for such period of time as are authorized by Congress: *Provided, however, That, (i) notwithstanding this provision, the Commission is hereby authorized, subject to the provisions of section 123, to distribute to the Agency five thousand kilograms of contained uranium-235 five hundred grams of uranium-233, and three kilograms of plutonium, together with the amounts of special nuclear material which will match in amount the sum of all quantities of special nuclear materials made available by all other members of the Agency to June 1, 1960; and (ii) notwithstanding the foregoing provisions of this subsection, the Commission may distribute to the International Atomic Energy Agency, or to any group of nations, such other amounts of special nuclear materials and for such other periods of time as are established in writing by the Commission: Provided, however, That before they are established by the Commission pursuant to this subdivision (ii), such proposed amounts and periods shall be submitted to the Congress and referred to the Joint Committee and a period of sixty days shall elapse while Congress is in session (in computing such sixty days, there shall be excluded the days on which either House is not in session because of an adjournment of more than three days): And provided further, That any such proposed amounts and periods shall not become effective if during such sixty-day period the Congress passes a concurrent resolution stating in substance that it does not favor the proposed action: And provided further, That prior to the elapse of the first thirty days of any such sixty-day period the Joint Committee shall submit a report to the Congress of its views and recommendations respecting the proposed amounts and periods and an accompanying proposed concurrent resolution stating in substance that the Congress favors, or does not favor, as the case may be, the proposed amounts or periods. The Commission may agree to repurchase any special nuclear material distributed under a sale arrangement pursuant to this subsection which is not consumed in the course of the activities conducted in accordance with the agreement for cooperation, or any uranium remaining after irradiation of such special nuclear material, at a repurchase price not to exceed the Commission's sale price for comparable special nuclear material or uranium in effect at the time of delivery of such material to the Commission. The Commission may also agree to purchase, consistent with and within the period of the agreement for cooperation, special nuclear material produced in a nuclear reactor located outside the United States through the use of special nuclear material which was leased or sold pursuant to this subsection. Under any such agreement the Commission shall purchase only such material as is delivered to the Commission during any period when there is in effect a guaranteed purchase price for the same material produced in a nuclear reactor by a person licensed under section 104, established by the Commission*

pursuant to section 56, and the price to be paid shall be the price so established by the Commission and in effect for the same material delivered to the Commission.

"b. Notwithstanding the provisions of sections 123, 124, and 125, the Commission is authorized to distribute to any person outside the United States (1) plutonium containing 80 per centum or more by weight of plutonium-238, and (2) other special nuclear material when it has, in accordance with subsection 57 d., exempted certain classes or quantities of such other special nuclear material or kinds of uses or users thereof from the requirements for a license set forth in this chapter. Unless hereafter otherwise authorized by law, the Commission shall be compensated for special nuclear material so distributed at not less than the Commission's published charges applicable to the domestic distribution of such material. The Commission shall not distribute any plutonium containing 80 per centum or more by weight of plutonium-238 to any person under this subsection if, in its opinion, such distribution would be inimical to the common defense and security. The Commission may require such reports regarding the use of material distributed pursuant to the provisions of this subsection as it deems necessary.

"c. The Commission is authorized to license or otherwise permit others to distribute special nuclear material to any person outside the United States under the same conditions, except as to charges, as would be applicable if the material were distributed by the Commission.

"SEC. 55. ACQUISITION.—The Commission is authorized, to the extent it deems necessary to effectuate the provisions of this Act, to purchase without regard to the limitations in section 54 or any guaranteed purchase prices established pursuant to section 56, and to take, requisition, condemn, or otherwise acquire any special nuclear material or any interest therein. Any contract of purchase made under this section may be made without regard to the provisions of section 3709 of the Revised Statutes, as amended, upon certification by the Commission that such action is necessary in the interest of the common defense and security, or upon a showing by the Commission that advertising is not reasonably practicable. Partial and advance payments may be made under contracts for such purposes. Just compensation shall be made for any right, property, or interest in property taken, requisitioned, or condemned under this section.¹⁸

"SEC. 56. GUARANTEED PURCHASE PRICES.—The Commission shall establish guaranteed purchase prices for plutonium produced in a nuclear reactor by a person licensed under section 104 and delivered to the Commission before January 1, 1971. The Commission shall also establish for such periods of time as it may deem necessary but not to exceed ten years as to any such period, guaranteed purchase prices for uranium enriched in the isotope 233 produced in a nuclear reactor by a person licensed under section 103 or section 104 and delivered to

¹⁸ Public Law 88-489 (78 Stat. 602) (1964), sec. 10, amended sec. 55 by substituting a complete new sec. 55. Before amendment sec. 55 read as follows:

"SEC. 55. ACQUISITION.—The Commission is authorized to purchase or otherwise acquire any special nuclear material or any interest therein outside the United States without regard to the provisions of section 3709 of the Revised Statutes, as amended, upon certification by the Commission that such action is necessary in the interest of the common defense and security, or upon a showing by the Commission that advertising is not reasonably practicable. Partial and advance payments may be made under contracts for such purposes."

the Commission within the period of the guarantee.¹⁹ Guaranteed purchase prices established under the authority of this section shall not exceed the Commission's determination of the estimated value of plutonium or uranium enriched in the isotope 233 as fuel in nuclear reactors, and such prices shall be established on a nondiscriminatory basis: *Provided*, That the Commission is authorized to establish such guaranteed purchase prices only for such plutonium or uranium enriched in the isotope 233 as the Commission shall determine is produced through the use of special nuclear material which was leased or sold by the Commission pursuant to section 53.²⁰

"SEC. 57.²¹ PROHIBITION.—

"a. Unless authorized by a general or specific license issued by the Commission, which the Commission is authorized to issue pursuant to section 53, no person may transfer or receive in interstate commerce, transfer, deliver, acquire, own, possess, receive possession of or title to, or import into or export from the United States any special nuclear material.

"b. It shall be unlawful for any person to directly or indirectly engage in the production of any special nuclear material outside of the United States except (1) under an agreement for cooperation made pursuant to section 123, or (2) upon authorization by the Commission after a determination that such activity will not be inimical to the interest of the United States.

"c. The Commission shall not—

"(1) distribute any special nuclear material to any person for a use which is not under the jurisdiction of the United States except pursuant to the provisions of section 54; or

"(2) distribute any special nuclear material or issue a license pursuant to section 53 to any person within the United States if the Commission finds that the distribution of such special nuclear material or the issuance of such license would be inimical to the common defense and security or would constitute an unreasonable risk to the health and safety of the public.

¹⁹ Public Law 91-500 (84 Stat. 1472) (1970), sec. 2, added "section 103 or" to this sentence.

²⁰ Public Law 88-489 (78 Stat. 602) (1964), sec. 11 amended sec. 56 by substituting a new sec. 56. Before amendment sec. 56 read as follows:

"SEC. 56. FAIR PRICE.—In determining the fair price to be paid by the Commission pursuant to section 52 for the production of any special nuclear material, the Commission shall take into consideration the value of the special nuclear material for its intended use by the United States and may give such weight to the actual cost of producing that material as the Commission finds to be equitable. The fair price, as may be determined by the Commission, shall apply to all licensed producers of the same material: *Provided, however*, That the Commission may establish guaranteed fair prices for all special nuclear material delivered to the Commission for such period of time as it may deem necessary but not to exceed seven years."

²¹ Public Law 88-489 (78 Stat. 602) (1964), sec. 12, amended sec. 57 substituting a complete new sec. 57. Before amendment sec. 57 read as follows:

"SEC. 57. PROHIBITION.—

"a. It shall be unlawful for any person to—

"(1) possess or transfer any special nuclear material which is the property of the United States except as authorized by the Commission pursuant to subsection 53 a.;

"(2) transfer or receive any special nuclear material in interstate commerce except as authorized by the Commission pursuant to subsection 25 a., or export from or import into the United States any special nuclear material; and

"(3) directly or indirectly engage in the production of any special nuclear material outside of the United States except (A) under an agreement for cooperation made pursuant to section 123, or (B) upon authorization by the Commission after a determination that such activity will not be inimical to the interest of the United States.

"b. The Commission shall not distribute any special nuclear material—

"(1) to any person for a use which is not under the jurisdiction of the United States except pursuant to the provisions of section 54; or

"(2) to any person within the United States, if the Commission finds that the distribution of such special nuclear material to such person would be inimical to the common defense and security."

"d.²² The Commission is authorized to establish classes of special nuclear material and to exempt certain classes or quantities of special nuclear material or kinds of uses or users from the requirements for a license set forth in this section when it makes a finding that the exemption of such classes or quantities of special nuclear material or such kinds of uses or users would not be inimical to the common defense and security and would not constitute an unreasonable risk to the health and safety of the public.

"SEC. 58. REVIEW.—Before the Commission establishes any guaranteed purchase price or guaranteed purchase price period in accordance with the provisions of section 56, or establishes any criteria for the waiver of any charge for the use of special nuclear material licensed and distributed under section 53, the proposed guaranteed purchase price, guaranteed purchase price period, or criteria for the waiver of such charge shall be submitted to the Joint Committee and a period of forty-five days shall elapse while Congress is in session (in computing such forty-five days there shall be excluded the days in which either House is not in session because of adjournment for more than three days) : *Provided, however,* That the Joint Committee, after having received the proposed guaranteed purchase price, guaranteed purchase price period, or criteria for the waiver of such charge, may by resolution in writing waive the conditions of, or all or any portion of, such forty-five day period.²³

"CHAPTER 7. SOURCE MATERIAL

"SEC. 61. SOURCE MATERIAL.—The Commission may determine from time to time that other material is source material in addition to those specified in the definition of source material. Before making such determination, the Commission must find that such material is essential to the production of special nuclear material and must find that the determination that such material is source material is in the interest of the common defense and security, and the President must have expressly assented in writing to the determination. The Commission's determination, together with the assent of the President, shall be submitted to the Joint Committee and a period of thirty days shall elapse while Congress is in session (in computing such thirty days, there shall be excluded the days on which either House is not in session because of an adjournment of more than three days) before the determination of the Commission may become effective : *Provided, however,* That the Joint Committee, after having received such determination, may by resolution in writing waive the conditions of or all or any portion of such thirty-day period.

"SEC. 62. LICENSE FOR TRANSFERS REQUIRED.—Unless authorized by a general or specific license issued by the Commission, which the Com-

²² Subsection (d) was added by sec. 3 of Public Law 93-377 (88 Stat. 472 at 475).

²³ Public Law 88-489 (78 Stat. 602) (1964), sec. 13, amended sec. 58 by substituting a complete new sec. 58. Before amendment sec. 58 read as follows :

"SEC. 58. REVIEW.—Before the Commission establishes any fair price or guaranteed fair price period in accordance with the provisions of section 56, or establishes any criteria for the waiver of any charge for the use of special nuclear material licensed or distributed under section 53 the proposed fair price, guaranteed fair price period, or criteria for the waiver of such charge shall be submitted to the Joint Committee, and a period of forty-five days shall elapse while Congress is in session (in computing such forty-five days there shall be excluded the days in which either House is not in session because of adjournment for more than three days) : *Provided, however,* That the Joint Committee, after having received the proposed fair price, guaranteed fair price period, or criteria for the waiver of such charge, may by resolution waive the conditions of or all or any portion of such forty-five day period."

mission is hereby authorized to issue, no person may transfer or receive in interstate commerce, transfer, deliver, receive possession of or title to, or import into or export from the United States any source material after removal from its place of deposit in nature, except that licenses shall not be required for quantities of source material which, in the opinion of the Commission, are unimportant.

* * * * *

“SEC. 64. FOREIGN DISTRIBUTION OF SOURCE MATERIAL.—The Commission is authorized to cooperate with any nation by distributing source material and to distribute source material pursuant to the terms of an agreement for cooperation to which such nation is a party and which is made in accordance with section 123. The Commission is also authorized to distribute source material outside of the United States upon a determination by the Commission that such activity will not be inimical to the interests of the United States.

* * * * *

“SEC. 69. PROHIBITION.—The Commission shall not license any person to transfer or deliver, receive possession of or title to, or import into or export from the United States any source material if, in the opinion of the Commission, the issuance of a license to such person for such purpose would be inimical to the common defense and security or the health and safety of the public.

“CHAPTER 8. BYPRODUCT MATERIAL

“SEC. 81. DOMESTIC DISTRIBUTION.—No person may transfer or receive in interstate commerce, manufacture, produce, transfer, acquire, own, possess, import, or export any byproduct material, except to the extent authorized by this section or by section 82. The Commission is authorized to issue general or specific licenses to applicants seeking to use byproduct material for research or development purposes, for medical therapy, industrial uses, agricultural uses, or such other useful applications as may be developed. The Commission may distribute, sell, loan, or lease such byproduct material as it owns to licensees²⁴ with or without charge: *Provided, however,* That, for byproduct material to be distributed by the Commission for a charge, the Commission shall establish prices on such equitable basis as, in the opinion of the Commission, (a) will provide reasonable compensation to the Government for such material, (b) will not discourage the use of such material or the development of sources of supply of such material independent of the Commission, and (c) will encourage research and development. In distributing such material, the Commission shall give preference to applicants proposing to use such material either in the conduct of research and development or in medical therapy. Licensees of the Commission may distribute byproduct material only to applicants therefor who are licensed by the Commission to receive such byproduct material. The Commission shall not permit the distribution of any byproduct material to any licensee, and shall recall or order the recall of any distributed material from any licensee, who is not equipped to observe or who fails to observe such safety standards to protect health as may be established by the Commission or who uses such material in violation of law or regulation of the Commission or

²⁴ Sec. 4 of Public Law 93-377 (88 Stat. 472 at 475) deleted the word “licensees” and substituted “qualified applicants”.

in a manner other than as disclosed in the application therefor or approved by the Commission. The Commission is authorized to establish classes of byproduct material and to exempt certain classes or quantities of material or kinds of uses or users from the requirements for a license set forth in this section when it makes a finding that the exemption of such classes or quantities of such material or such kinds of uses or users will not constitute an unreasonable risk to the common defense and security and to the health and safety of the public.

"SEC. 82. FOREIGN DISTRIBUTION OF BYPRODUCT MATERIAL.—

"a. The Commission is authorized to cooperate with any nation by distributing byproduct material, and to distribute byproduct material, pursuant to the terms of an agreement for cooperation to which such nation is party and which is made in accordance with section 123.

"b. The Commission is also authorized to distribute byproduct material to any person outside the United States upon application therefor by such person and demand such charge for such materials as would be charged for the material if it were distributed within the United States: *Provided, however,* That the Commission shall not distribute any such material to any person under this section if, in its opinion, such distribution would be inimical to the common defense and security: *And provided further,* That the Commission may require such reports regarding the use of material distributed pursuant to the provisions of this section as it deems necessary.

"c. The Commission is authorized to license others to distribute byproduct material to any person outside the United States under the same conditions, except as to charges, as would be applicable if the material were distributed by the Commission.

"CHAPTER 9. MILITARY APPLICATION OF ATOMIC ENERGY

"SEC. 91. AUTHORITY.—

"a. The Commission is authorized to—

"(1) conduct experiments and do research and development work in the military application of atomic energy; and

"(2) engage in the production of atomic weapons, or atomic weapon parts, except that such activities shall be carried on only to the extent that the express consent and direction of the President of the United States has been obtained, which consent and direction shall be obtained at least once each year.

"b. The President from time to time may direct the Commission (1) to deliver such quantities of special nuclear material or atomic weapons to the Department of Defense for such use as he deems necessary in the interest of national defense, or (2) to authorize the Department of Defense to manufacture, produce, or acquire any atomic weapon or utilization facility for military purposes: *Provided, however,* That such authorization shall not extend to the production of special nuclear material other than that incidental to the operation of such utilization facilities.

"c.²⁵ The President may authorize the Commission or the Department of Defense, with the assistance of the other, to cooperate with another nation and, notwithstanding the provisions of section 57, 62, or 81, to transfer by sale, lease, or loan to that nation, in accordance with terms and conditions of a program approved by the President—

²⁵ Public Law 85-479 (72 Stat. 276) (1958), sec. 1, added subsec. e to sec. 91.

"(1) nonnuclear parts of atomic weapons provided that such nation has made substantial progress in the development of atomic weapons, and other nonnuclear parts of atomic weapons systems involving Restricted Data provided that such transfer will not contribute significantly to that nation's atomic weapon design, development, or fabrication capability; for the purpose of improving that nation's state of training and operational readiness;

"(2) utilization facilities for military applications; and

"(3) source, byproduct, or special nuclear material for research on, development of, production of, or use in utilization facilities for military applications; and

"(4) source, byproduct, or special nuclear material for research on, development of, or use in atomic weapons: *Provided, however,* That the transfer of such material to that nation is necessary to improve its atomic weapon design, development, or fabrication capability: *And provided further,* That such nation has made substantial progress in the development of atomic weapons,

whenever the President determines that the proposed cooperation and each proposed transfer arrangement for the nonnuclear parts of atomic weapons and atomic weapons systems, utilization facilities or source, byproduct, or special nuclear material will promote and will not constitute an unreasonable risk to the common defense and security, while such other nation is participating with the United States pursuant to an international arrangement by substantial and material contributions to the mutual defense and security: *Provided, however,* That the cooperation is undertaken pursuant to an agreement entered into in accordance with section 123: *And provided further,* That if an agreement for cooperation arranged pursuant to this subsection provides for transfer of utilization facilities for military applications the Commission, or the Department of Defense with respect to cooperation it has been authorized to undertake, may authorize any person to transfer such utilization facilities for military applications in accordance with the terms and conditions of this subsection and of the agreement for cooperation.

"SEC. 92.²⁶ PROHIBITION.—It shall be unlawful, except as provided in section 91, for any person to transfer or receive in interstate or foreign commerce, manufacture, produce, transfer, acquire, possess, import, or export any atomic weapon. Nothing in this section shall be deemed to modify the provisions of subsection 31 a. or section 101.

"CHAPTER 10. ATOMIC ENERGY LICENSES

"SEC. 101. LICENSE REQUIRED.—It shall be unlawful, except as provided in section 91, for any person within the United States to transfer or receive in interstate commerce, manufacture, produce, transfer, acquire, possess, use,²⁷ import, or export any utilization or production facility except under and in accordance with a license issued by the Commission pursuant to section 103 or 104.

²⁶ Public Law 85-479 (72 Stat. 276) (1958), sec. 2, amended sec. 92 by substituting a complete new sec. 92. Before amendment sec. 92 read as follows:

"SEC. 92. PROHIBITION.—It shall be unlawful for any person to transfer or receive in interstate commerce, manufacture, produce, transfer, acquire, possess, import, or export any atomic weapon, except as may be authorized by the Commission pursuant to the provisions of section 91. Nothing in this section shall be deemed to modify the provisions of subsection 31 a. or section 101."

²⁷ Public Law 84-1006 (70 Stat. 1069) (1956), sec. 11, added the word "use".

"SEC. 102.²⁸ UTILIZATION AND PRODUCTION FACILITIES FOR INDUSTRIAL OR COMMERCIAL PURPOSES.—

"a. Except as provided in subsections b. and c., or otherwise specifically authorized by law, any license hereafter issued for a utilization or production facility for industrial or commercial purposes shall be issued pursuant to section 103.

"b. Any license hereafter issued for a utilization or production facility for industrial or commercial purposes, the construction or operation of which was licensed pursuant to subsection 104 b. prior to enactment into law of this subsection, shall be issued under subsection 104 b.

"c. Any license for a utilization or production facility for industrial or commercial purposes constructed or operated under an arrangement with the Commission entered into under the Cooperative Power Reactor Demonstration Program shall, except as otherwise specifically required by applicable law, be issued under subsection 104 b.

"SEC. 103. COMMERCIAL LICENSES.—

"a. The Commission is authorized to issue licenses to persons applying therefore to transfer or receive in interstate commerce, manufacture, produce, transfer, acquire, possess, use,²⁹ import, or export under the terms of an agreement for cooperation arranged pursuant to section 123, utilization or production facilities for industrial or commercial purposes.³⁰ Such licenses shall be issued in accordance with the provisions of chapter 16 and subject to such conditions as the Commission may by rule or regulation establish to effectuate the purposes and provisions of this Act.

"b. The Commission shall issue such licenses on a nonexclusive basis to persons applying therefor (1) whose proposed activities will serve a useful purpose proportionate to the quantities of special nuclear material or source material to be utilized; (2) who are equipped to observe and who agree to observe such safety standards to protect health and to minimize danger to life or property as the Commission may by rule establish; and (3) who agree to make available to the Commission such technical information and data concerning activities under such licenses as the Commission may determine necessary to promote the common defense and security and to protect the health and safety of the public. All such information may be used by the Commission only for the purposes of the common defense and security and to protect the health and safety of the public.

"c. Each such license shall be issued for a specified period, as determined by the Commission, depending on the type of activity to be licensed, but not exceeding forty years, and may be renewed upon the expiration of such period.

²⁸ Public Law 91-560 (84 Stat. 1472) (1970), sec. 3, amended sec. 102, prior to amendment it read as follows:

"SEC. 102. FINDING OF PRACTICAL VALUE.—Whenever the Commission has made a finding in writing that any type of utilization or production facility has been sufficiently developed to be of practical value for industrial or commercial purposes, the Commission may thereafter issue licenses for such type of facility pursuant to section 103."

²⁹ Public Law 84-1006 (70 Stat. 1069), sec. 12, added the word "use".

³⁰ Public Law 91-650 (84 Stat. 1472) (1970), sec. 4, amended the first sentence of sec. 103 a. Before amendment it read as follows:

"Subsequent to a finding by the Commission as required in section 102, the Commission may issue licenses to transfer or receive in interstate commerce, manufacture, produce, transfer, acquire, possess, use, import, or export under the terms of an agreement for cooperation arranged pursuant to section 123, such type of utilization or production facility."

"d. No license under this section may be given to any person for activities which are not under or within the jurisdiction of the United States, except for the export of production or utilization facilities under terms of an agreement for cooperation arranged pursuant to section 123, or except under the provisions of section 109. No license may be issued to an alien or any³¹ corporation or other entity if the Commission knows or has reason to believe it is owned, controlled, or dominated by an alien, a foreign corporation, or a foreign government. In any event, no license may be issued to any person within the United States if, in the opinion of the Commission, the issuance of a license to such person would be inimical to the common defense and security or to the health and safety of the public.

"SEC. 104. MEDICAL THERAPY AND RESEARCH AND DEVELOPMENT.—

"a. The Commission is authorized to issue licenses to persons applying therefor for utilization facilities for use in medical therapy. In issuing such licenses the Commission is directed to permit the widest amount of effective medical therapy possible with the amount of special nuclear material available for such purposes and to impose the minimum amount of regulation consistent with its obligations under this Act to promote the common defense and security and to protect the health and safety of the public.

"b.³² As provided for in subsection 102b. or 102c., or where specifically authorized by law, the Commission is authorized to issue licenses under this subsection to persons applying therefor for utilization and production facilities for industrial and commercial purposes. In issuing licenses under this subsection, the Commission shall impose the minimum amount of such regulations and terms of license as will permit the Commission to fulfill its obligations under this Act.

"c. The Commission is authorized to issue licenses to persons applying therefor for utilization and production facilities useful in the conduct of research and development activities of the types specified in section 31 and which are not facilities of the type specified in subsection 104b. The Commission is directed to impose only such minimum amount of regulation of the licensee as the Commission finds will permit the Commission to fulfill its obligations under this Act to promote the common defense and security and to protect the health and safety of the public and will permit the conduct of widespread and diverse research and development.

"d. No license under this section may be given to any person for activities which are not under or within the jurisdiction of the United States, except for the export of production or utilization facilities under terms of an agreement for cooperation arranged pursuant to

³¹ Public Law 84-1006 (70 Stat. 1069) (1956), sec. 13, added the words "an alien or any" between the words "to" and "any" in the second sentence of subsec. 103 d. Addition of the word "any" was, of course, unnecessary.

³² Public Law 91-560 (84 Stat. 1472) (1970), sec. 5, amended subsec. 104 b. Before amendment it read as follows:

"b. The Commission is authorized to issue licenses to persons applying therefor for utilization and production facilities involved in the conduct of research and development activities leading to the demonstration of the practical value of such facilities for industrial or commercial purposes. In issuing licenses under this subsection, the Commission shall impose the minimum amount of such regulations and terms of license as will permit the Commission to fulfill its obligations under this Act to promote the common defense and security and to protect the health and safety of the public and will be compatible with the regulations and terms of license which would apply in the event that a commercial license were later to be issued pursuant to section 103 for that type of facility. In issuing such licenses, priority shall be given to those activities which will, in the opinion of the Commission, lead to major advances in the application of atomic energy for industrial or commercial purposes."

section 123 or except under the provisions of section 109. No license may be issued to any corporation or other entity if the Commission knows or has reason to believe it is owned, controlled, or dominated by an alien, a foreign corporation, or a foreign government. In any event, no license may be issued to any person within the United States if, in the opinion of the Commission, the issuance of a license to such person would be inimical to the common defense and security or to the health and safety of the public.

* * * * *

"CHAPTER 11. INTERNATIONAL ACTIVITIES

"SEC. 121. EFFECT OF INTERNATIONAL ARRANGEMENTS.—Any provision of this Act or any action of the Commission to the extent and during the time that it conflicts with the provisions of any international arrangement made after the date of enactment of this Act shall be deemed to be of no force or effect.

"SEC. 122. POLICIES CONTAINED IN INTERNATIONAL ARRANGEMENTS.—In the performance of its functions under this Act, the Commission shall give maximum effect to the policies contained in any international arrangement made after the date of enactment of this Act.

"SEC. 123.³³ COOPERATION WITH OTHER NATIONS.—No cooperation with any nation or regional defense organization pursuant to sections 53, 54 a., 57, 64, 82, 91, 103, 104, or 144 shall be undertaken until—

"a. the Commission or, in the case of those agreements for cooperation arranged pursuant to subsection 91 c. or 144 b. which are to be implemented by the Department of Defense, the Department of Defense has submitted to the President the proposed agreement for cooperation, together with its recommendations thereon, which proposed agreement shall include (1) the terms, conditions, duration, nature, and scope of the cooperation; (2) a guaranty by the cooperating party that security safeguards and standards as set forth in the agreement for cooperation will be maintained; (3) except in the case of those agreements for cooperation arranged pursuant to subsection 91 c. a guaranty by the cooperating party that any material to be transferred pursuant to such agreement will not be used for atomic weapons, or for research on or development of atomic weapons or for any other military purpose; and (4) a guaranty by the cooperating party that any material or any Restricted Data to be transferred pursuant to the agreement for cooperation will not be transferred to unauthorized persons or beyond the jurisdiction of the cooperating party, except as specified in the agreement for cooperation;

³³ Public Law 85-479 (72 Stat. 276) (1958), sec. 3, amended sec. 123 by inserting "91," and substituting a new subsec. a. Before amendment subsec. a. read as follows:

"a. the Commission or, in the case of those agreements for cooperation arranged pursuant to subsection 144 b., the Department of Defense has submitted to the President the proposed agreement for cooperation, together with its recommendation thereon, which proposed agreement shall include (1) the terms, conditions, duration, nature, and scope of the cooperation; (2) a guaranty by the cooperating party that security safeguards and standards as set forth in the agreement for cooperation will be maintained; (3) a guaranty by the cooperating party that any material to be transferred pursuant to such agreement will not be used for atomic weapons, or for research on or development of atomic weapons, or for any other military purpose; and (4) a guaranty by the cooperating party that any material or any Restricted Data to be transferred pursuant to the agreement for cooperation will not be transferred to unauthorized persons or beyond the jurisdiction of the cooperating party, except as specified in the agreement for cooperation;"

Public Law 88-489 (78 Stat. 602) (1964), sec. 15, added "53,".

"b. the President has approved and authorized the execution of the proposed agreement for cooperation, and has made a determination in writing that the performance of the proposed agreement will promote and will not constitute an unreasonable risk to the common defense and security;

"c. the proposed agreement for cooperation, together with the approval and the determination of the President, has been submitted to the Joint Committee and a period of thirty days has elapsed while Congress is in session (in computing such thirty days, there shall be excluded the days on which either House is not in session because of an adjournment of more than three days): *Provided, however*, That the Joint Committee, after having received such agreement for cooperation, may by resolution in writing waive the conditions of all or any portion of such thirty-day period; and;³⁴

"d.³⁵ The proposed agreement for cooperation, together with the approval and determination of the President, if arranged pursuant to subsection 91 c., 144 b., or 144 c., or if entailing implementation of sections 53, 54, 103, or 104 in relation to a reactor that may be capable of producing more than five thermal megawatts or special nuclear material for use in connection therewith, has been submitted to the Congress and referred to the Joint Committee and a period of sixty days has elapsed while Congress is in session (in computing such sixty days, there shall be excluded the days on which either House is not in session because of an adjournment of more than three days), but any such proposed agreement for cooperation shall not become effective if during such sixty-day period the Congress passes a concurrent resolution stating in substance that it does not favor the proposed agreement for cooperation: *Provided*, That prior to the elapse of the first thirty days of any such sixty-day period the Joint Committee shall submit a report to the Congress of its views and recommendations respecting the proposed agreement and an accompanying proposed concurrent resolution stating in substance that the Congress favors, or does not favor, as the case may be, the proposed agreement for cooperation. Any such concurrent resolution so reported shall become the pending business of the House in question (in the case of the Senate the time for debate shall be equally divided between the proponents and the opponent) within twenty-five days and shall be voted on within five calendar days thereafter, unless such House shall otherwise determine.

"SEC. 124. INTERNATIONAL ATOMIC POOL.—The President is authorized to enter into an international arrangement with a group of nations providing for international cooperation in the nonmilitary applications of atomic energy and he may thereafter cooperate with that group of nations pursuant to sections 54 a, 57, 64, 82, 103, 104, or 114 a.: *Provided, however*, That the cooperation is undertaken pursuant to an agreement for cooperation entered into in accordance with section 123.

³⁴ Public Law 85-681 (72 Stat. 632) (1958), sec. 4, added the proviso to subsec. 123 c. The semicolon erroneously inserted after the word "and" at the end of the subsection was added by Public Law 85-479.

³⁵ Public Law 85-479 (72 Stat. 276) (1958), sec. 4, added new subsec. 123 d, which was amended and restated by sec. 1 of Public Law 93-485 (88 Stat. 1460). Sec. 2 of Public Law 93-485 provided that "This Act shall apply to proposed agreements for cooperation and to proposed amendments to agreements for cooperation hereafter submitted to the Congress."

"SEC. 125.³⁶ COOPERATION WITH BERLIN.—The President may authorize the Commission to enter into agreements for cooperation with the Federal Republic of Germany in accordance with section 123, on behalf of Berlin, which for the purposes of this Act comprises those areas over which the Berlin Senate exercises jurisdiction (the United States, British, and French sectors) and the Commission may thereafter cooperate with Berlin pursuant to sections 54 a, 57, 64, 82, 103, or 104: *Provided*, That the guaranties required by section 123 shall be made by Berlin with the approval of the allied commandants.

"CHAPTER 12. CONTROL OF INFORMATION

"SEC. 141. POLICY.—It shall be the policy of the Commission to control the dissemination and declassification of Restricted Data in such a manner as to assure the common defense and security. Consistent with such policy, the Commission shall be guided by the following principles:

"a. Until effective and enforceable international safeguards against the use of atomic energy for destructive purposes have been established by an international arrangement, there shall be no exchange of Restricted Data with other nations except as authorized by section 144; and

"b. The dissemination of scientific and technical information relating to atomic energy should be permitted and encouraged so as to provide that free interchange of ideas and criticism which is essential to scientific and industrial progress and public understanding and to enlarge the fund of technical information.

"SEC. 142. CLASSIFICATION AND DECLASSIFICATION OF RESTRICTED DATA.—

"a. The Commission shall from time to time determine the data, within the definition of Restricted Data, which can be published without undue risk to the common defense and security and shall thereupon cause such data to be declassified and removed from the category of Restricted Data.

"b. The Commission shall maintain a continuous review of Restricted Data and of any Classification Guides issued for the guidance of those in the atomic energy program with respect to the areas of Restricted Data which have been declassified in order to determine which information may be declassified and removed from the category of Restricted Data without undue risk to the common defense and security.

"c. In the case of Restricted Data which the Commission and the Department of Defense jointly determine to relate primarily to the military utilization of atomic weapons, the determination that such data may be published without constituting an unreasonable risk to the common defense and security shall be made by the Commission and the Department of Defense jointly, and if the Commission and the Department of Defense do not agree, the determination shall be made by the President.

"d. The Commission shall remove from the Restricted Data category such data as the Commission and the Department of Defense jointly determine relates primarily to the military utilization of atomic

³⁶ Public Law 85-14 (71 Stat. 11) (1957), added sec. 125.

weapons and which the Commission and Department of Defense jointly determine can be adequately safeguarded as defense information: *Provided, however*, That no such data so removed from the Restricted Data category shall be transmitted or otherwise made available to any nation or regional defense organization, while such data remains defense information, except pursuant to an agreement for cooperation entered into in accordance with subsection 144 b.

"e. The Commission shall remove from the Restricted Data category such information concerning the atomic energy programs of other nations as the Commission and the Director of Central Intelligence jointly determine to be necessary to carry out the provisions of section 102(d) of the National Security Act of 1947, as amended, and can be adequately safeguarded as defense information.

"SEC. 143. DEPARTMENT OF DEFENSE PARTICIPATION.—The Commission may authorize any of its employees, or employees of any contractor, prospective contractor, licensee or prospective licensee of the Commission or any other person authorized access to Restricted Data by the Commission under subsections 145 b. and 145 c.³⁷ to permit any employee of an agency of the Department of Defense or of its contractors, or any member of the Armed Forces to have access to Restricted Data required in the performance of his duties and so certified by the head of the appropriate agency of the Department of Defense or his designee: *Provided, however*, That the head of the appropriate agency of the Department of Defense or his designee has determined, in accordance with the established personnel security procedures and standards of such agency, that permitting the member or employee to have access to such Restricted Data will not endanger the common defense and security: *And provided further*, That the Secretary of Defense finds that the established personnel and other security procedures and standards of such agency are adequate and in reasonable conformity to the standards established by the Commission under section 145.

"SEC. 144. INTERNATIONAL COOPERATION.—

"a. The President may authorize the Commission to cooperate with another nation and to communicate to that nation Restricted Data on—

"(1) refining, purification, and subsequent treatment of source material;

"(2) civilian reactor development;

"(3) production of special nuclear material;

"(4) health and safety;

"(5) industrial and other applications of atomic energy for peaceful purposes; and

"(6) research and development relating to the foregoing:

Provided, however, That no such cooperation shall involve the communication of Restricted Data relating to the design or fabrication of atomic weapons: *And provided further*, That the cooperation is undertaken pursuant to an agreement for cooperation entered into in accordance with section 123, or is undertaken pursuant to an agreement existing on the effective date of this Act.³⁸

³⁷ Public Law 84-1006 (70 Stat. 1069) (1956), sec. 14, added the words "or any other person authorized access to Restricted Data by the Commission under subsection 145 b." Public Law 87-206 (75 Stat. 475) (1961), sec. 5, deleted the words "subsection 145 b," and substituted in lieu thereof the words, "subsections 145 b. and 145 c."

³⁸ Public Law 85-479 (72 Stat. 276) (1958), sec. 5, amended subsec. a. of sec. 144 by inserting the word "civilian" before the words "reactor development" in clause (2) thereof.

"b.³⁹ The President may authorize the Department of Defense, with the assistance of the Commission, to cooperate with another nation or with a regional defense organization to which the United States is a party, and to communicate to that nation or organization such Restricted Data (including design information) as is necessary to—

- "(1) the development of defense plans;
- "(2) the training of personnel in the employment of and defense against atomic weapons and other military applications of atomic energy;
- "(3) the evaluation of the capabilities of potential enemies in the employment of atomic weapons and other military applications of atomic energy; and
- "(4) the development of compatible delivery systems for atomic weapons;

whenever the President determines that the proposed cooperation and the proposed communication of the Restricted Data will promote and will not constitute an unreasonable risk to the common defense and security, while such other nation or organization is participating with the United States pursuant to an international arrangement by substantial and material contributions to the mutual defense and security: *Provided, however*, That the cooperation is undertaken pursuant to an agreement entered into in accordance with section 123.

"c.⁴⁰ In addition to the cooperation authorized in subsections 144 a. and 144 b., the President may authorize the Commission, with the assistance of the Department of Defense, to cooperate with another nation and—

"(1) to exchange with that nation Restricted Data concerning atomic weapons: *Provided*, That communication of such Restricted Data to that nation is necessary to improve its atomic weapon design, development, or fabrication capability and provided that nation has made substantial progress in the development of atomic weapons; and

"(2) to communicate or exchange with that nation Restricted Data concerning research, development, or design, of military reactors,

whenever the President determines that the proposed cooperation and the communication of the proposed Restricted Data will promote and will not constitute an unreasonable risk to the common defense and

³⁹ Public Law 85-479 (72 Stat. 276) (1958), sec. 6, amended sec. 144 by substituting a new subsec. b. Before amendment subsec. b. read as follows:

"b. The President may authorize the Department of Defense, with the assistance of the Commission, to cooperate with another nation or with a regional defense organization to which the United States is a party, and to communicate to that nation or organization such Restricted Data as is necessary to—

"(1) the development of defense plans;

"(2) the training of personnel in the employment of and defense against atomic weapons; and

"(3) the evaluation of the capabilities of potential enemies in the employment of atomic weapons.

while such other nation or organization is participating with the United States pursuant to an international arrangement by substantial and material contributions to the mutual defense and security: *Provided, however*, That no such cooperation shall involve communication of Restricted Data relating to the design or fabrication of atomic weapons except with regard to external characteristics, including size, weight, and shape, yields and effects, and systems employed in the delivery or use thereof but not including any data in these categories unless in the joint judgment of the Commission and the Department of Defense such data will not reveal important information concerning the design or fabrication of the nuclear components of an atomic weapon: *And provided further*, That the cooperation is undertaken pursuant to an agreement entered into in accordance with section 123."

⁴⁰ Public Law 85-479 (72 Stat. 276) (1958), sec. 7, amended sec. 144 by adding subsecs. c. and d.

security, while such other nation is participating with the United States pursuant to an international arrangement by substantial and material contributions to the mutual defense and security: *Provided, however,* That the cooperation is undertaken pursuant to an agreement entered into in accordance with section 123.

"d.⁴⁰ The President may authorize an agency of the United States to communicate in accordance with the terms and conditions of an agreement for cooperation arranged pursuant to subsection 144 a., b., or c., such Restricted Data as is determined to be transmissible under the agreement for cooperation involved.

"SEC. 145. RESTRICTIONS.—

"a. No arrangement shall be made under section 31, no contract shall be made or continued in effect under section 41, and no license shall be issued under section 103 or 104, unless the person with whom such arrangement is made, the contractor or prospective contractor, or the prospective licensee agrees in writing not to permit any individual to have access to Restricted Data until the Civil Service Commission shall have made an investigation and report to the Commission on the character, associations, and loyalty of such individual, and the Commission shall have determined that permitting such person to have access to Restricted Data will not endanger the common defense and security.

"b. Except as authorized by the Commission or the General Manager upon a determination by the Commission or General Manager that such action is clearly consistent with the national interest, no individual shall be employed by the Commission nor shall the Commission permit any individual to have access to Restricted Data until the Civil Service Commission shall have made an investigation and report to the Commission on the character, associations, and loyalty of such individual, and the Commission shall have determined that permitting such person to have access to Restricted Data will not endanger the common defense and security.

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"CHAPTER 17. JOINT COMMITTEE ON ATOMIC ENERGY
[REPEALED—1977]⁴¹

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"CHAPTER 19. MISCELLANEOUS

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"SEC. 251. REPORT TO CONGRESS.—The Commission shall submit to the Congress, in January⁴² of each year, a report concerning the activities of the Commission. The Commission shall include in such report, and shall at such other times as it deems desirable submit to the Congress, such recommendations for additional legislation as the Commission deems necessary or desirable.

* * * * *

⁴¹ Sec. 302(a) of this Act, as added by Public Law 95-110, repealed Chapter 17. For matters regarding the reassignment of functions and responsibilities of the Joint Committee, see Chapter 20.

⁴² Public Law 86-43 (73 Stat. 73) (1959), amended sec. 251 by deleting the words "and July" after the word "January".

**"CHAPTER 20. JOINT COMMITTEE ON ATOMIC ENERGY ABOLISHED;
FUNCTIONS AND RESPONSIBILITIES REASSIGNED ⁴³**

"SEC. 301. JOINT COMMITTEE ON ATOMIC ENERGY ABOLISHED.—

"a. The Joint Committee on Atomic Energy is abolished.

"b. Any reference in any rule, resolution, or order of the Senate or the House of Representatives or in any law, regulation, or Executive order to the Joint Committee on Atomic Energy shall, on and after the date of enactment of this section, be considered as referring to the committees of the Senate and the House of Representatives which, under the rules of the Senate and the House, have jurisdiction over the subject matter of such reference.

"c. All records, data, charts, and files of the Joint Committee on Atomic Energy are transferred to the committees of the Senate and House of Representatives which, under the rules of the Senate and the House, have jurisdiction over the subject matters to which such records, data, charts, and files relate. In the event that any record, data, chart, or file shall be within the jurisdiction of more than one committee, duplicate copies shall be provided upon request.

"SEC. 302. TRANSFERS OF CERTAIN FUNCTIONS OF THE JOINT COMMITTEE ON ATOMIC ENERGY AND CONFORMING AMENDMENTS TO CERTAIN OTHER LAWS.—

"a. Effective on the date of enactment of this section, chapter 17 of this Act is repealed.

"b. Section 103 of the Atomic Energy Community Act of 1955, as amended, is repealed.

"c. Section 3 of the Congressional Budget and Impoundment Control Act of 1974 is amended by—

"(1) striking the subsection designation '(a)'; and

"(2) repealing subsection (b).

"d. Section 252(a)(3) of the Legislative Reorganization Act of 1970 is repealed.

"SEC. 303. INFORMATION AND ASSISTANCE TO CONGRESSIONAL COMMITTEES.—

"a. The Secretary of Energy and the Nuclear Regulatory Commission shall keep the committees of the Senate and the House of Representatives which, under the rules of the Senate and the House, have jurisdiction over the functions of the Secretary or the Commission, fully and currently informed with respect to the activities of the Secretary and the Commission.

"b. The Department of Defense and Department of State shall keep the committees of the Senate and the House of Representatives which, under the rules of the Senate and the House, have jurisdiction over national security considerations of nuclear energy, full and currently informed with respect to such matters within the Department of Defense and Department of State relating to national security considerations of nuclear technology which are within the jurisdiction of such committees.

"c. Any Government agency shall furnish any information requested by the committees of the Senate and the House of Representatives

⁴³ Chapter 20 was added by Public Law 95-110 (91 Stat. 884).

which, under the rules of the Senate and the House, have jurisdiction over the development, utilization, or application of nuclear energy, with respect to the activities or responsibilities of such agency in the field of nuclear energy which are within the jurisdiction of such committees.

“d. The committees of the Senate and the House of Representatives which, under the rules of the Senate and the House, have jurisdiction over the development, utilization, or application of nuclear energy, are authorized to utilize the services, information, facilities, and personnel of any Government agency which has activities or responsibilities in the field of nuclear energy which are within the jurisdiction of such committees: *Provided, however,* That any utilization of personnel by such committees shall be on a reimbursable basis and shall require, with respect to committees of the Senate, the prior written consent of the Committee on Rules and Administration, and with respect to committees of the House of Representatives, the prior written consent of the Committee on House Administration.”

b. EURATOM Cooperation Act of 1958, as amended

Public Law 85-846 [S. 4273], 72 Stat. 1084, approved August 28, 1958; as amended by Public Law 87-206, 75 Stat. 479, approved September 6, 1961; Public Law 88-394, 78 Stat. 376, approved August 1, 1964; Public Law 90-190, 81 Stat. 578, approved December 14, 1967; and by Public Law 93-88, 87 Stat. 296, approved August 14, 1973

AN ACT To provide for cooperation with the European Atomic Energy Community.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "EURATOM Cooperation Act of 1958".

SEC. 2. As used in this Act—

(a) "The Community" means the European Atomic Energy Community (EURATOM).

(b) The "Commission" means the Atomic Energy Commission, as established by the Atomic Energy Act of 1954, as amended.

(c) "Joint program" means the cooperative program established by the Community and the United States and carried out in accordance with the provisions of an agreement for cooperation entered into pursuant to the provisions of section 123 of the Atomic Energy Act of 1954, as amended, to bring into operation in the territory of the members of the Community powerplants using nuclear reactors of types selected by the Commission and the Community, having as a goal a total installed capacity of approximately one million kilowatts of electricity by December 31, 1963, except that two reactors may be selected to be in operation by December 31, 1965.

(d) All other terms used in this Act shall have the same meaning as terms described in section 11 of the Atomic Energy Act of 1954, as amended.

SEC. 3. There is hereby authorized to be appropriated to the Commission, in accordance with the provisions of section 261(a)(2) of the Atomic Energy Act of 1954, as amended, the sum of \$3,000,000¹ as an initial authorization for fiscal year 1959 for use in a cooperative program of research and development in connection with the types of reactors selected by the Commission and the Community under the joint program. The Commission may enter into contracts for such periods as it deems necessary, but in no event to exceed five years, for the purpose of conducting the research and development program authorized by this section: *Provided*, That the Community authorizes an equivalent amount for use in the cooperative program of research and development.

SEC. 4. The Commission is authorized, within limits of amounts which may hereafter be authorized to be appropriated in accordance

¹ Public Law 86-50 (sec. 109), Public Law 87-701 (sec. 109), Public Law 88-72 (sec. 103), Public Law 88-332 (sec. 101(a)), and Public Law 89-32 (sec. 101), authorized appropriation of an additional \$7,000,000, \$5,000,000, \$7,500,000, \$3,000,000, and \$3,000,000, respectively.

with the provisions of section 261(a)(2) of the Atomic Energy Act of 1954, as amended, to make guarantee contracts which shall in the aggregate not exceed a total contingent liability of \$90,000,000 designed to assure that the charges to an operator of a reactor constructed under the joint program for fabricating, processing, and transporting fuel will be no greater than would result under the fuel fabricating and fuel life guarantees which the Commission shall establish for such reactor. Within the limits of such amounts, the Commission is authorized to make contracts under this section, without regard to the provisions of sections 3679 and 3709 of the Revised Statutes, as amended, for such periods of time as it determines to be necessary: *Provided, however,* That no such contracts may extend for a period longer than that necessary to cover fuel loaded into a reactor constructed under the joint program during the first ten years of the reactor operation or prior to December 31, 1973 (or December 31, 1975, for not more than two reactors selected under section 2(c)), whichever is earlier. In establishing criteria for the selection of projects and in entering into such guarantee contracts, the Commission shall be guided by, but not limited to, the following principles:

(a) The Commission shall encourage a strong and competitive atomic equipment manufacturing industry in the United States designed to provide diversified sources of supply for reactor parts and reactor fuel elements under the joint program;

(b) The guarantee shall be consistent with the provisions of this Act and of Attachment A to the Memorandum of Understanding between the Government of the United States and the Community, signed in Brussels on May 29, 1958, and in Washington, District of Columbia, on June 12, 1958, and transmitted to Congress on June 23, 1958;

(c) The Commission shall establish and publish criteria for computing the maximum fuel element charge and minimum fuel element life to be guaranteed by the manufacturer as a basis for inviting and evaluating proposals.²

(d) The guarantee by the manufacturer shall be as favorable as any other guarantee offered by the manufacturer for any comparable fuel element within a reasonable time period; and

(e) The Commission shall obtain a royalty-free, nonexclusive, irrevocable license for governmental purposes to any patents on inventions or discoveries made or conceived by the manufacturer in the course of development or fabrication of fuel elements during the period covered by the Commission's guarantee.

SEC. 5. Pursuant to the provisions of section 54 of the Atomic Energy Act of 1954, as amended, there is hereby authorized for sale or lease to the Community—

an amount of contained uranium 235 which does not exceed that necessary to support the fuel cycle of power reactors located within the Community having a total installed capacity of thirty-five thousand megawatts of electric energy, together with twenty-five thousand kilograms of contained uranium 235 for other purposes;³

² Public Law 87-206 (75 Stat. 475) (1961), amended section 4(c). Prior to amendment it read: "The commission shall establish and publish minimum levels of fuel element cost and life to be guaranteed by the manufacturer as a basis for inviting and evaluating proposals."

³ Public Law 93-88 (87 Stat. 296) (1973), amended this paragraph. Previously, it read "two hundred fifteen thousand kilograms of contained uranium 235;"

one thousand five hundred kilograms of plutonium; and thirty kilograms of uranium 233;

in accordance with the provisions of an agreement or agreements for cooperation between the Government of the United States and the Community entered into pursuant to the provisions of section 123 of the Atomic Energy Act of 1954, as amended: *Provided*, That the Government of the United States obtains the equivalent of a first lien on any such material sold to the Community for which payment is not made in full at the time of transfer. The Commission may enter into contracts to provide, after December 31, 1968, for the producing or enriching of all, or part of, the above-mentioned contained uranium 235 pursuant to the provisions of subsection 161 v. (B) of said Act, as amended in lieu of sale or lease thereof.⁴

SEC. 6. (a) The Atomic Energy Commission is authorized to purchase or otherwise acquire from the Community special nuclear material or any interest therein from reactors constructed under the joint program in accordance with the terms of an agreement for cooperation entered into pursuant to the provisions of section 123 of the Atomic Energy Act of 1954, as amended: *Provided*, That neither plutonium nor uranium 233 nor any interest therein shall be acquired under this section in excess of the total quantities authorized by law. The Commission is hereby authorized to acquire from the Community pursuant to this section up to four thousand one hundred kilograms of plutonium for use only for peaceful purposes.

(b) Any contract made under the provisions of this section to acquire plutonium or any interest therein may be at such prices and for such period of time as the Commission may deem necessary: *Provided*, That with respect to plutonium produced in any reactor constructed under the joint program, no such contract shall be for a period greater than ten years of operation of such reactors or December 31, 1973 (or December 31, 1975, for not more than two reactors selected under section 2 (c)), whichever is earlier: *And provided further*, That no such contract shall provide for compensation or the payment of a purchase price in excess of the Commission's established price in effect at the time of delivery to the Commission for such material as fuel in a nuclear reactor.

(c) Any contract made under the provisions of this section to acquire uranium enriched in the isotope uranium 235 may be at such price and for such period of time as the Commission may deem necessary: *Provided*, That no such contract shall be for a period of time extending beyond the terminal date of the agreement for cooperation with the Community or provide for the acquisition of uranium enriched in the isotope U-235 in excess of the quantities of such material

⁴ Public Law 90-190 (81 Stat. 575) (1967), sec. 13, amended sec. 5 by substituting a complete new section. Before amendment, sec. 5 read as follows:

"Sec. 5. Pursuant to the provisions of section 54 of the Atomic Energy Act of 1954, as amended, there is hereby authorized for sale or lease to the Community:

Seventy thousand kilograms of contained uranium 235

Five hundred kilograms of plutonium

Thirty kilograms of uranium 233

In accordance with the provisions of an agreement or agreements for cooperation between the Government of the United States and the Community entered into pursuant to the provisions of section 123 of the Atomic Energy Act of 1954, as amended: *Provided*, That the Government of the United States obtains the equivalent of a first lien on any such material sold to the Community for which payment is not made in full at the time of transfer."

Sec. 5 had earlier been amended by Public Law 88-394 (78 Stat. 376), sec. 5, and by Public Law 87-206 (75 Stat. 475), sec. 19.

that have been distributed to the Community by the Commission less the quantity consumed in the nuclear reactors involved in the joint program: *And provided further*, That no such contract shall provide for compensation or the payment of a purchase price in excess of the Atomic Energy Commission's established charges for such material in effect at the time delivery is made to the Commission.

(d) Any contract made under this section for the purchase of special nuclear material or any interest therein may be made without regard to the provisions of section 3679 of the Revised Statutes, as amended.

(e) Any contract made under this section may be made without regard to section 3709 of the Revised Statutes, as amended, upon certification by the Commission that such action is necessary in the interest of the common defense and security, or upon a showing by the Commission that advertising is not reasonably practicable.

SEC. 7. The Government of the United States of America shall not be liable for any damages or third party liability arising out of or resulting from the joint program: *Provided, however*, That nothing in this section shall deprive any person of any rights under section 170 of the Atomic Energy Act of 1954, as amended. *And provided further*, That nothing in this section shall apply to arrangements made by the Commission under a research and development program authorized in section 3.⁵ The Government of the United States shall take such steps as may be necessary, including appropriate disclaimer or indemnity arrangements, in order to carry out the provisions of this section.

⁵ Proviso added by Public Law 87-206 (75 Stat. 475) (1961).

c. EURATOM Resolution

Senate Concurrent Resolution 116, 85th Congress, 2d Session, passed
August 23, 1958

Whereas the United States of America has instituted a program of international cooperation to make available to cooperating nations the benefits of peaceful applications of atomic energy; and

Whereas the United States of America and the European Atomic Energy Community (EURATOM) have entered into an agreement providing for cooperation in programs designed to advance the peaceful application of atomic energy: Therefore be it

Resolved by the Senate (the House of Representatives concurring), That pursuant to the provisions of section 11(1) and 124 of the Atomic Energy Act of 1954, as amended, the agreement between the Government of the United States of America and the European Atomic Energy Community (EURATOM), signed at Brussels on May 29, 1958, and at Washington on June 19, 1958, concerning co-operation between the parties in programs for the advancement of the peaceful application of atomic energy, be and hereby is approved. This resolution does not constitute approval or disapproval of the memorandum of understanding, or any other agreements which have not been formally approved or authorized by the Congress.

(281)

**d. International Atomic Energy Agency Participation Act of 1957,
as amended**

Partial text of Public Law 85-177 [H.R. 8992], 71 Stat. 453, approved August 28, 1957; as amended by Public Law 85-795, 72 Stat. 959, approved August 28, 1958; and by Public Law 89-348, 79 Stat. 1310, approved November 8, 1965

AN ACT To provide for the appointment of representatives of the United States in the organs of the International Atomic Energy Agency, and to make other provisions with respect to the participation of the United States in that Agency, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "International Atomic Energy Agency Participation Act of 1957".

SEC. 2. (a) The President, by and with the advice and consent of the Senate, shall appoint a representative and a deputy representative of the United States to the International Atomic Energy Agency (hereinafter referred to as the "Agency"), who shall hold office at the pleasure of the President. Such representative and deputy representative shall represent the United States on the Board of Governors of the Agency, may represent the United States at the General Conference, and may serve ex officio as United States representative on any organ of that Agency, and shall perform such other functions in connection with the participation of the United States in the Agency as the President may from time to time direct.

(b) The President, by and with the advice and consent of the Senate, may appoint or designate from time to time to attend a specified session or specified sessions of the General Conference of the Agency a representative of the United States and such number of alternates as he may determine consistent with the rules of procedure of the General Conference.

(c) The President may also appoint or designate from time to time such other persons as he may deem necessary to represent the United States in the organs of the Agency. The President may designate any officer of the United States Government, whose appointment is subject to confirmation by the Senate, to act, without additional compensation, for temporary periods as the representative of the United States on the Board of Governors or to the General Conference of the Agency in the absence or disability of the representative and deputy representative appointed under section 2(a) or in lieu of such representatives in connection with a specified subject matter.

(d) All persons appointed or designated in pursuance of authority contained in this section shall receive compensation at rates determined by the President upon the basis of duties to be performed but not in excess of rates authorized by sections 411 and 412 of the Foreign Service Act of 1946, as amended (22 U.S.C. 866, 867), for Chiefs of Mission

and Foreign Service officers occupying positions of equivalent importance, except that no Member of the Senate or House of Representatives or officer of the United States who is designated under subsection (b) or subsection (c) of this section as a delegate or representative of the United States or as an alternate to attend any specified session or specified sessions of the General Conference shall be entitled to receive such compensation. Any person who receives compensation pursuant to the provisions of this subsection may be granted allowances and benefits not to exceed those received by Chiefs of Mission and Foreign Service officers occupying positions of equivalent importance.

SEC. 3. The participation of the United States in the International Atomic Energy Agency shall be consistent with and in furtherance of the purposes of the Agency set forth in its Statute and the policy concerning the development, use, and control of atomic energy set forth in the Atomic Energy Act of 1954, as amended. [The President shall, from time to time as occasion may require, but not less than once each year, make reports to the Congress on the activities of the International Atomic Energy Agency and on the participation of the United States therein.]¹ In addition to any other requirements of law, the Department of State and the Atomic Energy Commission shall keep the Joint Committee on Atomic Energy, the House Committee on Foreign Affairs, and the Senate Committee on Foreign Relations, as appropriate, currently informed with respect to the activities of the Agency and the participation of the United States therein.

SEC. 4. The representatives provided for in section 2 hereof, when representing the United States in the organs of the Agency, shall, at all times, act in accordance with the instructions of the President, and such representatives shall, in accordance with such instructions, cast any and all votes under the Statute of the International Atomic Energy Agency.

SEC. 5. There is hereby authorized to be appropriated annually to the Department of State, out of any money in the Treasury not otherwise appropriated, such sums as may be necessary for the payment by the United States of its share of the expenses of the International Atomic Energy Agency as apportioned by the Agency in accordance with paragraph (D) of article XIV of the Statute of the Agency, and for all necessary salaries and expenses of the representatives provided for in section 2 hereof and of their appropriate staffs, including personal services without regard to the civil service laws and the Classification Act of 1949, as amended; travel expenses without regard to the Standardized Government Travel Regulations, as amended, the Travel Expense Act of 1949, as amended, and section 10 of the Act of March 3, 1933, as amended; salaries as authorized by the Foreign Service Act of 1946, as amended, or as authorized by the Atomic Energy Act of 1954, as amended, and expenses and allowances of personnel and dependents as authorized by the Foreign Service Act of 1946, as amended; services as authorized by section 15 of the Act of August 2, 1946 (5 U.S.C. 55a);² translating and other services, by contract; hire

¹ Public Law 89-348 (79 Stat. 1310), sec. 1(20), amended Public Law 85-177 by repealing the requirement of a report to the Congress by the President not less than once each year on the activities of the International Atomic Energy Agency and on the participation of the United States therein.

² Public Law 89-554 (80 Stat. 416) codified section 15 of the Act of August 2, 1946, as 5 U.S.C. 3109.

of passenger motor vehicles and other local transportation; printing and binding without regard to section II of the Act of March 1, 1919 (44 U.S.C. 111); official functions and courtesies; such sums as may be necessary to defray the expenses of United States participation in the Preparatory Commission for the Agency, established pursuant to annex I of the Statute of the Agency; and such other expenses as may be authorized by the Secretary of State.

SEC. 6. (a) Notwithstanding any other provision of law, Executive order or regulation, a Federal employee who, with the approval of the Federal agency, or the head of the department by which he is employed, leaves his position to enter the employ of the Agency shall not be considered for the purposes of the Civil Service Retirement Act, as amended, and the Federal Employees' Group Life Insurance Act of 1954, as amended, as separated from his Federal position during such employment with the Agency but not to extend beyond the first three consecutive years of his entering the employ of the Agency: *Provided*, (1) That he shall pay to the Civil Service Commission within ninety days from the date he is separated without prejudice from the Agency all necessary deductions and agency contributions for coverage under the Civil Service Retirement Act for the period of his employment by the Agency, and (2) That all deductions and agency contributions necessary for continued coverage under the Federal Employees' Group Life Insurance Act of 1954, as amended, shall be made during the term of his employment with the International Atomic Energy Agency. If such employee, within three years from the date of his employment with the Agency, and within ninety days from the date he is separated without prejudice from the Agency, applies to be restored to his Federal position, he shall within thirty days of such application be restored to such position or to a position of like seniority, status and pay.³

(b) Notwithstanding any other provision of law, Executive order or regulation, any Presidential appointee or elected officer who leaves his position to enter, or who within ninety days after the termination of his position enters, the employ of the Agency, shall be entitled to the coverage and benefits of the Civil Service Retirement Act, as amended, and the Federal Employees' Group Life Insurance Act of 1954, as amended, but not beyond the earlier of either the termination of his employment with the Agency or the expiration of three years from the date he entered employment with the Agency: *Provided*, (1) That he shall pay to the Civil Service Commission within ninety days from the date he is separated without prejudice from the Agency all necessary deductions and agency contributions for coverage under the Civil Service Retirement Act for the period of his employment by the Agency and (2) That all deductions and agency contributions necessary for continued coverage under the Federal Employees' Group Life Insurance Act of 1954, as amended, shall be made during the term of his employment with the Agency.

³ Sec. 7 of Public Law 85-795 (72 Stat. 959), approved Aug. 28, 1958, repealed sec. 6(a), "except that it shall be considered to remain in effect with respect to any employee subject thereto who is serving as an employee of the International Atomic Energy Agency on the date of enactment of this Act and who does not make the election referred to in section 6 and for the purposes of any rights and benefits vested thereunder prior to such date."

(c) The President is authorized to prescribe such regulations as may be necessary to carry out the provisions of this section and to protect the retirement, insurance and such other civil service rights and privileges as the President may find appropriate.

* * * * *

SEC. 8. In the event of an amendment to the Statute of the Agency being adopted in accordance with article XVIII-C of the Statute to which the Senate by formal vote shall refuse its advice and consent, upon notification by the Senate to the President of such refusal to advise and consent, all further authority under sections 2, 3, 4, and 5 of this Act, as amended, shall terminate: *Provided, however,* That the Secretary of State, under such regulations as the President shall promulgate, shall have the necessary authority to complete the prompt and orderly settlement of obligations and commitments to the Agency already incurred and pay salaries, allowances, travel expenses, and other expenses required for a prompt and orderly termination of United States participation in the Agency: *And provided further,* That the representative and the deputy representative of the United States to the Agency, and such other officers or employees representing the United States in the Agency, under such regulations as the President shall promulgate, shall retain their authority under this Act for such time as may be necessary to complete the settlement of matters arising out of the United States participation in the Agency.

e. Executive Orders Concerning International Atomic Cooperation

(1) Executive Order 11057, October 18, 1962, 27 F.R. 10289, 3 CFR, 1959-63 Comp., p. 648

AUTHORIZATION FOR THE COMMUNICATION OF RESTRICTED DATA BY THE DEPARTMENT OF STATE

By virtue of the authority vested in me by the Atomic Energy Act of 1954, as amended (hereinafter referred to as the Act; 42 U.S.C. 2011 et seq.), and as President of the United States, it is ordered as follows:

The Department of State is hereby authorized to communicate, in accordance with the terms and conditions of any agreement for cooperation arranged pursuant to subsection 144b of the Act (42 U.S.C. 2164 (b)), such Restricted Data and data removed from the Restricted Data category under subsection 142d of the Act (42 U.S.C. 2162(d)) as is determined

(i) by the President, pursuant to the provisions of the Act, or

(ii) by the Atomic Energy Commission and the Department of Defense, jointly pursuant to the provisions of Executive Order No. 10841, as amended,

to be transmissible under the agreement for cooperation involved. Such communications shall be effected through mechanisms established by the Department of State in accordance with the terms and conditions of the agreement for cooperation involved: *Provided*, that no such communication shall be made by the Department of State until the proposed communication has been authorized either in accordance with procedures, adopted by the Atomic Energy Commission and the Department of Defense and applicable to conduct of programs for cooperation by those agencies, or in accordance with procedures approved by the Atomic Energy Commission and the Department of Defense and applicable to conduct of programs for cooperation by the Department of State.

(2) Executive Order 10899, December 9, 1960, 25 F.R. 12729, 3 CFR, 1959-63 Comp., p. 427

**AUTHORIZATION FOR THE COMMUNICATION OF RESTRICTED DATA BY THE
CENTRAL INTELLIGENCE AGENCY**

By virtue of the authority vested in me by the Atomic Energy Act of 1954, as amended (hereinafter referred to as the Act; 42 U.S.C. 2011 et seq.), and as President of the United States, it is ordered as follows:

The Central Intelligence Agency is hereby authorized to communicate for intelligence purposes, in accordance with the terms and conditions of any agreement for cooperation arranged pursuant to subsections 144 a, b, or c of the Act (42 U.S.C. 2162 (a), (b), or (c)), such Restricted Data and data removed from the Restricted Data category under subsection 142d of the Act (42 U.S.C. 2162(d)) as is determined

(i) by the President, pursuant to the provisions of the Act, or

(ii) by the Atomic Energy Commission and the Department of

Defense, jointly pursuant to the provisions of Executive Order No. 10841,

to be transmissible under the agreement for cooperation involved. Such communications shall be effected through mechanisms established by the Central Intelligence Agency in accordance with the terms and conditions of the agreement for cooperation involved: *Provided*, that no such communication shall be made by the Central Intelligence Agency until the proposed communication has been authorized either in accordance with procedures adopted by the Atomic Energy Commission and the Department of Defense and applicable to conduct of programs for cooperation by those agencies, or in accordance with procedures approved by the Atomic Energy Commission and the Department of Defense and applicable to conduct of programs for cooperation by the Central Intelligence Agency.

(3) Executive Order 10841, September 30, 1959, 24 F.R. 7941, 3 CFR, 1959-63 Comp., p. 375; as amended by Executive Order 10958, August 10, 1961, 26 F.R. 7315, 3 CFR 1959-63 Comp., p. 482

PROVIDING FOR THE CARRYING OUT OF CERTAIN PROVISIONS OF THE ATOMIC ENERGY ACT OF 1954, AS AMENDED, RELATING TO INTERNATIONAL CO-OPERATION

By virtue of the authority vested in me by the Atomic Energy Act of 1954, as amended (42 U.S.C. 2011 et seq.), herein referred to as the Act, and section 301 of title 3 of the United States Code, and as President of the United States, it is ordered as follows:

SECTION 1. Whenever the President, pursuant to section 123 of the Act, has approved and authorized the execution of a proposed agreement providing for cooperation pursuant to section 91c, 144a, 144b, or 144c of the Act (42 U.S.C. 2121(c), 2164(a), 2164(b), 2164(c)), such approval and authorization by the President shall constitute his authorization to cooperate to the extent provided for in the agreement and in the manner provided for in section 91c, 144a, 144b, or 144c, as pertinent. In respect of sections 91c, 144b, and 144c, authorizations by the President to cooperate shall be subject to the requirements of section 123d of the Act and shall also be subjected to appropriate determinations made pursuant to section 2 of this order.

SEC. 2. (a) The Secretary of Defense and the Atomic Energy Commission are hereby designated and empowered to exercise jointly, after consultation with executive agencies as may be appropriate, the following described authority without the approval, ratification, or other action of the President:

(1) The authority vested in the President by section 91c of the Act to determine that the proposed cooperation and each proposed transfer arrangement referred to in that section will promote and will not constitute an unreasonable risk to the common defense and security.

(2) The authority vested in the President by section 144b of the Act to determine that the proposed cooperation and the proposed communication of Restricted Data referred to in that section will promote and will not constitute an unreasonable risk to the common defense and security; *Provided*, that each determination made under this paragraph shall be referred to the President and, unless disapproved by him, shall become effective fifteen days after such referral or at such later time as may be specified in the determination.¹

(3) The authority vested in the President by section 144c the Act to determine that the proposed cooperation and the communication of the proposed Restricted Data referred to in that section will promote and will not constitute an unreasonable risk to the common defense and security.

¹ This provision was added by Executive Order 10958, August 10, 1961, 26 F.R. 7315.

(b) Whenever the Secretary of Defense and the Atomic Energy Commission are unable to agree upon a joint determination under the provisions of subsection (a) of this section, the recommendations of each of them, together with the recommendations of other agencies concerned, shall be referred to the President, and the determination shall be made by the President.

SEC. 3. This order shall not be construed as delegating the function vested in the President by section 91c of the Act of approving programs proposed under that section.

SEC. 4. (a) The functions of negotiating and entering into international agreements under the Act shall be performed by or under the authority of the Secretary of State.

(b) International cooperation under the Act shall be subject to the responsibilities of the Secretary of State with respect to the foreign policy of the United States pertinent thereto.

2. Energy Policy and Conservation Act¹

Partial text of Public Law 94-163 [S. 622], 89 Stat. 871, approved
December 22, 1975

AN ACT To increase domestic energy supplies and availability; to restrain energy demand; to prepare for energy emergencies; and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Energy Policy and Conservation Act".

* * * * *

STATEMENT OF PURPOSES

SEC. 2. The purposes of this Act are—

(1) to grant specific standby authority to the President, subject to congressional review, to impose rationing, to reduce demand for energy through the implementation of energy conservation plans, and to fulfill obligations of the United States under the international energy program;

(2) to provide for the creation of a Strategic Petroleum Reserve capable of reducing the impact of severe energy supply interruptions;

(3) to increase the supply of fossil fuels in the United States, through price incentives and production requirements;

(4) to conserve energy supplies through energy conservation programs, and, where necessary, the regulation of certain energy uses;

(5) to provide for improved energy efficiency of motor vehicles, major appliances, and certain other consumer products;

(6) to reduce the demand for petroleum products and natural gas through programs designed to provide greater availability and use of this Nation's abundant coal resources; and

(7) to provide a means for verification of energy data to assure the reliability of energy data.

* * * * *

DEFINITIONS

SEC. 3. As used in this Act:

(1) The term "Administrator" means the Administrator of the Federal Energy Administration.

(2) The term "person" includes (A) any individual, (B) any corporation, company, association, firm, partnership, society, trust, joint venture, or joint stock company and (C) the government and any

¹ 42 U.S.C. 6201-6422.

agency of the United States or any State or political subdivision thereof.

(3) The term "petroleum product" means crude oil residual fuel oil, or any refined petroleum product (including any natural liquid and any natural gas liquid product).

(4) The term "State" means a State, the District of Columbia, Puerto Rico, or any territory or possession of the United States.

(5) The term "United States" when used in the geographical sense means all of the States and the Outer Continental Shelf.

(6) The term "Outer Continental Shelf" has the same meaning as such term has under section 2 of the Outer Continental Shelf Lands Act (43 U.S.C. 1331).

(7) The term "international energy program" means the Agreement on an International Energy Program, signed by the United States on November 18, 1974, including (A) the annex entitled "Emergency Reserves",² (B) any amendment to such Agreement which includes another nation as a party to such Agreement, and (C) any technical or clerical amendment to such Agreement.

(8) The term "severe energy supply interruption" means a national energy supply shortage which the President determines—

(A) is, or is likely to be, of significant scope and duration, and of an emergency nature;

(B) may cause major adverse impact on national safety or the national economy; and

(C) results, or is likely to result, from an interruption in the supply of imported petroleum products, or from sabotage or an act of God.

* * * * *

DOMESTIC USE OF ENERGY SUPPLIES AND RELATED MATERIALS AND EQUIPMENT

SEC. 103. (a) The President may, by rule, under such terms and conditions as he determines to be appropriate and necessary to carry out the purposes of this Act, restrict exports of—

(1) coal, petroleum products, natural gas, or petrochemical feedstocks, and

(2) supplies of materials or equipment which he determines to be necessary (A) to maintain or further exploration, production, refining, or transportation of energy supplies, or (B) for the construction or maintenance of energy facilities within the United States.

(b) (1) The President shall exercise the authority provided for in subsection (a) to promulgate a rule prohibiting the export of crude oil and natural gas produced in the United States, except that the President may, pursuant to paragraph (2), exempt from such prohibition such crude oil or natural gas exports which he determines to be consistent with the national interest and the purposes of this Act.

(2) Exemptions from any rule prohibiting crude oil or natural gas exports shall be included in such rule or provided for in an amendment thereto and may be based on the purpose for export, class of seller or purchaser, country of destination, or any other reasonable classification

² For text, see Vol. III, Sec. I.

or basis as the President determines to be appropriate and consistent with the national interest and the purposes of this Act.

(c) In order to implement any rule promulgated under subsection (a) of this section, the President may request and, if so, the Secretary of Commerce shall, pursuant to the procedures established by the Export Administration Act of 1969³ (but without regard to the phrase "and to reduce the serious inflationary impact of foreign demand" in section 3(2)(A) of such Act⁴), impose such restrictions as specified in any rule under subsection (a) on exports of coal, petroleum products, natural gas, or petrochemical feedstocks, and such supplies of materials and equipment.

(d) Any finding by the President pursuant to subsection (a) or (b) and any action taken by the Secretary of Commerce pursuant thereto shall take into account the national interest as related to the need to leave uninterrupted or unimpaired—

(1) exchanges in similar quantity for convenience or increased efficiency of transportation with persons or the government of a foreign state.

(2) temporary exports for convenience or increased efficiency of transportation across parts of an adjacent foreign state which exports reenter the United States, and

(3) the historical trading relations of the United States with Canada and Mexico.

(e) (1) The provisions of subchapter II of chapter 5 of title 5, United States Code, shall apply with respect to the promulgation of any rule pursuant to this section, except that the President may waive the requirement pertaining to the notice of proposed rulemaking or period for comment only if he finds that compliance with such requirements may seriously impair his ability to impose effective and timely prohibitions on exports.

(2) In the event such notice and comment period are waived with respect to a rule promulgated under this section, the President shall afford interested persons an opportunity to comment on any such rule at the earliest practicable date thereafter.

(3) If the President determines to request the Secretary of Commerce to impose specified restrictions as provided for in subsection (c), the enforcement and penalty provisions of the Export Administration Act of 1969 shall apply, in lieu of this Act, to any violation of such restrictions.

(f) The President shall submit quarterly reports to the Congress concerning the administration of this section and any findings made pursuant to subsection (a) or (b).

* * * * *

PART B—AUTHORITIES WITH RESPECT TO INTERNATIONAL ENERGY PROGRAM

INTERNATIONAL OIL ALLOCATION

SEC. 251. (a) The President may, by rule, require that persons engaged in producing, transporting, refining, distributing, or storing petroleum products, take such action as he determines to be necessary

³ 50 U.S.C. App. 2401 note.

⁴ 50 U.S.C. App. 2402.

for implementation of the obligations of the United States under chapters III and IV of the international energy program insofar as such obligations relate to the international allocation of petroleum products. Allocation under such rule shall be in such amounts and at such prices as are specified in (or determined in a manner prescribed by) such rule. Such rule may apply to any petroleum product owned or controlled by any person described in the first sentence of this subsection who is subject to the jurisdiction of the United States, including any petroleum product destined, directly or indirectly, for import into the United States or any foreign country, or produced in the United States. Subject to subsection (b) (2), such a rule shall remain in effect until amended or rescinded by the President.

(b) (1) No rule under subsection (a) may take effect unless the President—

(A) has transmitted such rule to the Congress;

(B) has found that putting such rule into effect is required in order to fulfill obligations of the United States under the international energy program; and

(C) has transmitted such finding to the Congress, together with a statement of the effective date and manner for exercise of such rule.

(2) No rule under subsection (b) may be put into effect or remain in effect after the expiration of 12 months after the date such rule was transmitted to Congress under paragraph (1) (A).

(c) (1) Any rule under this section shall be consistent with the attainment, to the maximum extent practicable, of the objectives specified in section 4(b) (1) of the Emergency Petroleum Allocation Act of 1973.⁵

(2) No officer or agency of the United States shall have any authority, other than authority under this section, to require that petroleum products be allocated to other countries for the purpose of implementation of the obligations of the United States under the international energy program.

(d) Neither section 103 of this Act nor section 28(u) of the Mineral Leasing Act of 1920⁶ shall preclude the allocation and export, to other countries in accordance with this section, of petroleum products produced in the United States.

INTERNATIONAL VOLUNTARY AGREEMENTS

SEC. 252. (a) Effective 90 days after the date of enactment of this Act, the requirements of this section shall be the sole procedures applicable to—

(1) the development or carrying out of voluntary agreements and plans of action to implement the allocation and information provisions of the international energy program, and

(2) the availability of immunity from the antitrust laws with respect to the development or carrying out of such voluntary agreements and plans of action.

(b) The Administrator, with the approval of the Attorney General, after each of them has consulted with the Federal Trade Commission and the Secretary of State, shall prescribe, by rule, standards and procedures by which persons engaged in the business of producing,

⁵ 15 U.S.C. 753.

⁶ 30 U.S.C. 185.

transporting, refining, distributing, or storing petroleum products may develop and carry out voluntary agreements, and plans of action, which are required to implement the allocation and information provisions of the international energy program.

(c) The standards and procedures prescribed under subsection (b) shall include the following requirements:

(1) (A) (i) Except as provided in clause (ii) or (iii) of this subparagraph, meetings held to develop or carry out a voluntary agreement or plan of action under this subsection shall permit attendance by representatives of committees of Congress and interested persons, including all interested segments of the petroleum industry, consumers, and the public; shall be preceded by timely and adequate notice with identification of the agenda of such meeting to the Attorney General, the Federal Trade Commission, committees of Congress, and (except during an international energy supply emergency with respect to meetings to carry out a voluntary agreement or to develop or carry out a plan of action) the public; and shall be initiated and chaired by a regular full-time Federal employee.

(ii) Meetings of bodies created by the International Energy Agency established by the international energy program need not be open to interested persons and need not be initiated and chaired by a regular full-time Federal employee.

(iii) The President, in consultation with the Administrator, the Secretary of State, and the Attorney General, may determine that a meeting held to carry out a voluntary agreement or to develop or carry out a plan of action shall not be open to interested persons or that attendance by interested persons may be limited, if the President finds that a wider disclosure would be detrimental to the foreign policy interests of the United States.

(B) No meetings may be held to develop or carry out a voluntary agreement or plan of action under this section unless a regular full-time Federal employee is present.

(2) Interested persons permitted to attend such a meeting shall be afforded an opportunity to present, in writing and orally, data, views, and arguments at such meetings, subject to any reasonable limitations with respect to the manner of presentation of data, views, and arguments as the Administrator may impose.

(3) A full and complete record and where practicable a verbatim transcript, shall be kept of any meeting held, and a full and complete record shall be kept of any communication (other than in a meeting) made, between or among participants or potential participants, to develop, or carry out a voluntary agreement or a plan of action under this section. Such record or transcript shall be deposited, together with any agreement resulting therefrom, with the Administrator, and shall be available to the Attorney General and the Federal Trade Commission. Such records or transcripts shall be available for public inspection and copying in accordance with section 552 of title 5, United States Code; except that (A) matter may not be withheld from disclosure under section 552(b) of such title on grounds other than the grounds specified in section 552 (b) (1), (b) (3), or so much of (b) (4) as relates

to trade secrets; and (B) in the exercise of authority under section 552(b) (1), the President shall consult with the Secretary of State, the Administrator, and the Attorney General with respect to questions relating to the foreign policy interests of the United States.

(4) No provision of this section may be exercised so as to prevent representatives of committees of Congress from attending meetings to which this section applies, or from having access to any transcripts, records, and agreements kept or made under this section.

(d) (1) The Attorney General and the Federal Trade Commission shall participate from the beginning in the development, and when practicable, in the carrying out of voluntary agreements and plans of action authorized under this section. Each may propose any alternative which would avoid or overcome, to the greatest extent practicable, possible anticompetitive effects while achieving substantially the purposes of this part. A voluntary agreement or plan of action under this section may not be carried out unless approved by the Attorney General, after consultation with the Federal Trade Commission. Prior to the expiration of the period determined under paragraph (2), the Federal Trade Commission shall transmit to the Attorney General its views as to whether such an agreement or plan of action should be approved, and shall publish such views in the Federal Register. The Attorney General, in consultation with the Federal Trade Commission, the Secretary of State, and the Administrator, shall have the right to review, amend, modify, disapprove, or revoke, on his own motion or upon the request of the Federal Trade Commission or any interested person, any voluntary agreement or plan of action at any time, and, if revoked, thereby withdraw prospectively any immunity which may be conferred by subsection (f) or (k).

(2) Any voluntary agreement or plan of action entered into pursuant to this section shall be submitted in writing to the Attorney General and the Federal Trade Commission 20 days before being implemented; except that during an international energy supply emergency, the Administrator, subject to approval of the Attorney General, may reduce such 20-day period. Any such agreement or plan of action shall be available for public inspection and copying, except that a plan of action shall be so available only to the extent to which records or transcripts are so available as provided in the last sentence of subsection (c) (3). Any action taken pursuant to such voluntary agreement or plan of action shall be reported to the Attorney General and the Federal Trade Commission pursuant to such regulations as shall be prescribed under paragraph (3) and (4) of subsection (e).

(3) A plan of action may not be approved by the Attorney General under this subsection unless such plan (A) describes the types of substantive actions which may be taken under the plan, and (B) is as specific in its description of proposed substantive actions as is reasonable in light of known circumstances.

(e) (1) The Attorney General and the Federal Trade Commission shall monitor the development and carrying out of voluntary agreements and plans of action authorized under this section in order to promote competition and to prevent anticompetitive practices and effects, while achieving substantially the purposes of this part.

(2) In addition to any requirement specified under subsections (b) and (c) of this section and in order to carry out the purposes of this section, the Attorney General, in consultation with the Federal Trade Commission and the Administrator, shall promulgate rules concerning the maintenance of necessary and appropriate records related to the development and carrying out of voluntary agreements and plans of action authorized pursuant to this section.

(3) Persons developing or carrying out voluntary agreements and plans of action authorized pursuant to this section shall maintain such records as are required by rules promulgated under paragraph (2). The Attorney General and the Federal Trade Commission shall have access to and the right to copy such records at reasonable times and upon reasonable notice.

(4) The Attorney General and the Federal Trade Commission may each prescribe such rules as may be necessary or appropriate to carry out their respective responsibilities under this section. They may both utilize for such purposes and for purposes of enforcement any powers conferred upon the Federal Trade Commission or the Department of Justice, or both, by the antitrust laws or the Antitrust Civil Process Act;⁷ and wherever any such law refers to "the purposes of this Act" or like terms, the reference shall be understood to include this section.

(f) (1) There shall be available as a defense to any civil or criminal action brought under the antitrust laws (or any similar State law) in respect to actions taken to develop or carry out a voluntary agreement or plan of action by persons engaged in the business of producing, transporting, refining, distributing, or storing petroleum products (provided that such actions were not taken for the purpose of injuring competition) that—

(A) such actions were taken—

(i) in the course of developing a voluntary agreement or plan of action pursuant to this section, or

(ii) to carry out a voluntary agreement or plan of action authorized and approved in accordance with this section, and

(B) such persons complied with the requirements of this section and the rules promulgated hereunder.

(2) Except in the case of actions taken to develop a voluntary agreement or plan of action, the defense provided in this subsection shall be available only if the person asserting the defense demonstrates that the actions were specified in, or within the reasonable contemplation of, an approved plan of action.

(3) Persons interposing the defense provided by this subsection shall have the burden of proof, except that the burden shall be on the person against whom the defense is asserted with respect to whether the actions were taken for the purpose of injuring competition.

(g) No provision of this section shall be construed as granting immunity for, or as limiting or in any way affecting any remedy or penalty which may result from any legal action or proceeding arising from, any act or practice which occurred prior to the date of enactment of this Act or subsequent to its expiration or repeal.

(h) Upon the expiration of the 90-day period which begins on the date of enactment of this Act, the provisions of sections 708 and 708A

⁷ 15 U.S.C. 1311 note.

(other than 708A(o)) of the Defense Production Act of 1950⁸ shall not apply to any agreement or action undertaken for the purpose of developing or carrying out (1) the international energy program, or (2) any allocation, price control, or similar program with respect to petroleum products under this Act or under the Emergency Petroleum Allocation Act of 1973.⁹ For purposes of section 708(A)(o) of the Defense Production Act of 1950, the effective date of the provisions of this Act which relate to international voluntary agreements to carry out the International Energy Program shall be deemed to be 90 days after the date of enactment of this Act.

(i) The Attorney General and the Federal Trade Commission shall each submit to the Congress and to the President, at least once every 6 months, a report on the impact on competition and on small business of actions authorized by this section.

(j) The authority granted by this section shall terminate June 30, 1979.

(k) In any action in any Federal or State court for breach of contract, there shall be available as a defense that the alleged breach of contract was caused predominantly by action taken during an international energy supply emergency to carry out a voluntary agreement or plan of action authorized and approved in accordance with this section.

(l) As used in this section and section 254:

(1) The term "international energy supply emergency" means any period (A) beginning on any date which the President determines allocation of petroleum products to nations participating in the international energy program is required by chapters III and IV of such program, and (B) ending on a date on which he determines that such allocation is no longer required. Such a period may not exceed 90 days, but the President may establish one or more additional 90-day periods by making anew the determination under subparagraph (A) of the preceding sentence. Any determination respecting the beginning or end of any such period shall be published in the Federal Register.

(2) The term "allocation and information provisions of the international energy program" means the provisions of the international energy program which relate to international allocation of petroleum products and to the information system provided in such program.

ADVISORY COMMITTEES

SEC. 253. (a) To achieve the purposes of the international energy program with respect to international allocation of petroleum products and the information system provided in such program, the Administrator may provide for the establishment of such advisory committees as he determines are necessary. In addition to the requirements specified in this section, such advisory committees shall be subject to the provisions of section 17 of the Federal Energy Administration Act of 1974¹⁰ (whether or not such Act or any of its provisions expire or terminate before June 30, 1985); shall be chaired by a regular full-

⁸ 50 U.S.C. App. 2158, 2158a.

⁹ 42 U.S.C. 751 note.

¹⁰ 15 U.S.C. 776.

time Federal employee; and shall include representatives of the public. The meetings of such committees shall be open to the public. The Attorney General and the Federal Trade Commission shall have adequate advance notice of any meeting and may have an official representative attend and participate in any such meeting.

(b) A verbatim transcript shall be kept of such advisory committee meetings, and shall be deposited with the Attorney General and the Federal Trade Commission. Such transcript shall be made available for public inspection and copying in accordance with section 552 of title 5, United States Code, except that matter may not be withheld from disclosure under section 552(b) of such title on grounds other than the grounds specified in section 552 (b) (1), (b) (3), and so much of (b) (4) as relates to trade secrets, or pursuant to a determination under subsection (c).

(c) The President, after consultation with the Secretary of State, the Federal Trade Commission, the Attorney General, and the Administrator, may suspend the application of—

(1) sections 10 and 11 of the Federal Advisory Committee Act,¹¹

(2) subsections (b) and (c) of section 17 of the Federal Energy Administration Act of 1974,¹⁰

(3) the requirement under subsection (a) of this section that meetings be open to the public, and

(4) the second sentence of subsection (b) ;

if the President determines with respect to a particular meeting, (A) that such suspension is essential to the developing or carrying out of the international energy program, (B) that such suspension relates solely to the purpose of international allocation of petroleum products and the information system provided in such program, and (C) that the meeting deals with matters described in section 552(b) (1) of title 5, United States Code. Such determination by the President shall be in writing, shall set forth a detailed explanation of reasons justifying the granting of such suspension, and shall be published in the Federal Register at a reasonable time prior to the effective date of any such suspension.

EXCHANGE OF INFORMATION

SEC. 254. (a) (1) Except as provided in subsections (b) and (c), the Administrator, after consultation with the Attorney General, may provide to the Secretary of State, and the Secretary of State may transmit to the International Energy Agency established by the international energy program, the information and data related to the energy industry certified by the Secretary of State as required to be submitted under the international energy program.

(2) (A) Except as provide in subparagraph (B) of this paragraph, any such information or data which is geological or geophysical information or a trade secret or commercial or financial information to which section 552 (b) (9) or (b) (4) of title 5, United States Code, applies shall, prior to such transmittal, be aggregated, accumulated, or otherwise reported in such manner as to avoid, to the fullest extent feasible, identification of any person from whom the

¹¹ 5 U.S.C. App. I.

United States obtained such information or data, and in the case of geological or geophysical information, a competitive disadvantage to such person.

(B)(1) Notwithstanding subparagraph (A) of this paragraph, during an international energy supply emergency, any such information or data with respect to the international allocation of petroleum products may be made available to the International Energy Agency if otherwise authorized to be made available to such Agency by paragraph (1) of this subsection.

(ii) Subparagraph (A) shall not apply to information described in subparagraph (A) (other than geological or geophysical information) if the President certifies, after opportunity for presentation of views by interested persons, that the International Energy Agency has adopted and is implementing security measures which assure that such information will not be disclosed by such Agency or its employees to any person or foreign country without having been aggregated, accumulated, or otherwise reported in such manner as to avoid identification of any person from whom the United States obtained such information or data.

(3)(A) Within 90 days after the date on enactment of this Act, and periodically thereafter, the President shall review the operation of this section and shall determine whether other signatory nations to the international energy program are transmitting information and data to the International Energy Agency in substantial compliance with such program. If the President determines that other nations are not so complying, paragraph (2)(B)(ii) shall not apply until he determines other nations are so complying.

(B) Any person who believes he has been or will be damaged by the transmittal of information or data pursuant to this section shall have the right to petition the President and to request changes in procedures which will protect such person from any competitive damage.

(b) If the President determines that the transmittal of data or information pursuant to the authority of this section would prejudice competition, violate the antitrust laws, or be inconsistent with United States national security interests, he may require that such data or information not be transmitted.

(c) Information and data the confidentiality of which is protected by statute shall not be provided by the Administrator to the Secretary of State under subsection (a) of this section for transmittal to the International Energy Agency, unless the Administrator has obtained the specific concurrence of the head of any department or agency which has the primary statutory authority for the collection, gathering, or obtaining of such information and data. In making a determination to concur in providing such information and data, the head of any department or agency which has the primary statutory authority for the collection, gathering, or obtaining of such information and data shall consider the purposes for which such information and data were collected, gathered, and obtained, the confidentiality provisions of such statutory authority, and the international obligations of the United States under the international energy program with respect to the transmittal of such information and data to an international organization or foreign country.

(d) For the purposes of carrying out the obligations of the United States under the international energy program, the authority to collect data granted by sections 11 and 13 of the Energy Supply and Environmental Coordination Act and the Federal Energy Administration Act of 1974 respectfully, shall continue in full force and effect without regard to the provisions of such Acts relating to their expiration.

(e) The authority under this section to transmit information shall be subject to any limitations on disclosure contained in other laws, except that such authority may be exercised without regard to—

(1) section 11(d) of the Energy Supply and Environmental Coordination Act of 1974;

(2) section 14(b) of the Federal Energy Administration Act of 1974;

(3) section 7 of the Export Administration Act of 1969;¹²

(4) section 9 of title 13, United States Code;

(5) section 1 of the Act of January 27, 1938 (15 U.S.C. 176(a)); and

(6) section 1905 of title 18, United States Code.

RELATIONSHIP OF THIS TITLE TO THE INTERNATIONAL ENERGY AGREEMENT

SEC. 255. The purpose of the Congress in enacting this title is to provide standby energy emergency authority to deal with energy shortage conditions and to minimize economic dislocations and adverse impacts on employment. While the authorities contained in this title may, to the extent authorized by this title, be used to carry out obligations incurred by the United States in connection with the International Energy Program, this title shall not be construed in any way as advice and consent, ratification, endorsement, or other form of congressional approval of the specific terms of such program.

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TITLE V—GENERAL PROVISIONS

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[Sections 505 and 506 amend The Energy Supply and Environmental Coordination Act of 1974]

PROHIBITED ACTS

SEC. 524. It shall be unlawful for any person—

(1) to violate any provision of title I or title II of this Act or this title (other than any provision of such titles which amend another law),

(2) to violate any rule, regulation, or order issued pursuant to any such provision or any provision of section 383 of this Act; or

(3) to fail to comply with any provision prescribed in, or pursuant to, an energy conservation contingency plan which is in effect.

¹² For text, see p. 138.

ENFORCEMENT

SEC. 525. (a) Whoever violates section 524 shall be subject to a civil penalty of not more than \$5,000 for each violation.

(b) Whoever willfully violates section 524 shall be fined not more than \$10,000 for each violation.

(c) Any person who knowingly and willfully violates section 524 with respect to the sale, offer of sale, or distribution in commerce of a product or commodity after having been subjected to a civil penalty for a prior violation of section 524 with respect to the sale, offer of sale, or distribution in commerce of such product or commodity shall be fined not more than \$50,000 or imprisoned not more than 6 months, or both.

(d) Whenever it appears to any officer or agency of the United States in whom is vested, or to whom is delegated, authority under this Act that any person has engaged, is engaged, or is about to engage in acts or practices constituting a violation of section 524, such officer or agency may request the Attorney General to bring an action in an appropriate district court of the United States to enjoin such acts or practices, and upon a proper showing a temporary restraining order or a preliminary or permanent injunction shall be granted without bond. Any such court may also issue mandatory injunctions commanding any person to comply with any rule, regulation, or order described in section 524.

(e)(1) Any person suffering legal wrong because of any act or practice arising out of any violation of any provision of this Act described in paragraph (2), may bring an action in an appropriate district court of the United States without regard to the amount in controversy, for appropriate relief, including an action for a declaratory judgment or writ of injunction. Nothing in this subsection shall authorize any person to recover damages.

(2) The provisions of this Act referred to in paragraph (1) are as follows:

- (A) Section 202 (relating to energy conservation plans).
- (B) Section 251 (relating to international oil allocation).
- (C) Section 252 (relating to international voluntary agreements).
- (D) Section 253 (relating to advisory committees).
- (E) Section 254 (relating to international exchange of information).
- (F) Section 521 (relating to prohibition on certain actions).

EFFECT ON OTHER LAWS

SEC. 526. No State law or State program in effect on the date of enactment of this Act, or which may become effective thereafter, shall be superseded by any provision of title I or II of this Act (other than any provision of such title which amends another law) or any rule, regulation, or order thereunder, except insofar as such State law or State program is in conflict with such provision, rule, regulation, or order.

* * * * *

EXPIRATION

SEC. 531. Except as otherwise provided in title I or title II, all authority under any provision of title I or title II (other than a provision of either such title amending another law) and any rule, regulation, or order issued pursuant to such authority, shall expire at midnight, June 30, 1985, but such expiration shall not affect any action or pending proceedings, civil or criminal, not finally determined on such date, nor any action or proceeding based upon any act committed prior to midnight, June 30, 1985.

PART C—CONGRESSIONAL REVIEW

PROCEDURE FOR CONGRESSIONAL REVIEW OF PRESIDENTIAL REQUESTS TO IMPLEMENT CERTAIN AUTHORITIES

SEC. 551. (a) For purposes of this section, the term “energy action” means any matter required to be transmitted, or submitted to the Congress in accordance with the procedures of this section.

(b) The President shall transmit any energy action (bearing an identification number) to both Houses of Congress on the same day. If both Houses are not in session on the day any energy action is received by the appropriate officers of each House, for purposes of this section such energy action shall be deemed to have been transmitted on the first succeeding day on which both Houses are in session.

(c) (1) Except as provided in paragraph (2) of this subsection, if energy action is transmitted to the Houses of Congress, such action shall take effect at the end of the first period of 15 calendar days of continuous session of Congress after the date on which such action is transmitted to such Houses, unless between the date of transmittal and the end of such 15-day period, either House passes a resolution stating in substance that such House does not favor such action.

(2) An energy action described in paragraph (1) may take effect prior to the expiration of the 15-calendar-day period after the date on which such action is transmitted, if each House of Congress approves a resolution affirmatively stating in substance that such House does not object to such action.

(d) For the purpose of subsection (c) of this section—

(1) continuity of session is broken only by an adjournment of Congress sine die; and

(2) the days on which either House is not in session because of an adjournment of more than 3 days to a day certain are excluded in the computation of the 15-calendar-day period.

(e) Under provisions contained in an energy action, a provision of such an action may take effect on a date later than the date on which such action otherwise takes effect pursuant to the provisions of this section.

(f) (1) This subsection is enacted by Congress—

(A) as an exercise of the rulemaking power of the Senate and the House of Representatives, respectively, and as such it is deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House in the case of resolutions described by paragraph (2)

of this subsection; and it supersedes other rules only to the extent that it is inconsistent therewith; and

(B) with full recognition of the constitutional right of either House to change the rules (so far as relating to the procedure of that House) at any time, in the same manner and to the same extent as in the case of any other rule of the House.

(2) For purposes of this subsection, the term "resolution" means only a resolution of either House of Congress described in subparagraph (A) or (B) of this paragraph.

(A) A resolution to the matter after the resolving clause of which is as follows: "That the _____ does not object to the energy action numbered _____ submitted to the Congress on _____, 19__", the first blank space therein being filled with the name of the resolving House and the other blank spaces being appropriately filled; but does not include a resolution which specifies more than one energy action.

(B) A resolution to the matter after the resolving clause of which is as follows: "That the _____ does not favor the energy action numbered _____ transmitted to Congress on _____, 19__", the first blank space therein being filled with the name of the resolving House and the other blank spaces therein being appropriately filled; but does not include a resolution which specifies more than one energy action.

(3) A resolution once introduced with respect to an energy action shall immediately be referred to a committee (and all resolutions with respect to the same plan shall be referred to the same committee) by the President of the Senate or the Speaker of the House of Representatives, as the case may be.

(4) (A) If the committee to which a resolution with respect to an energy action has been referred has not reported it at the end of 5 calendar days after its referral, it shall be in order to move either to discharge the committee from further consideration of such resolution or to discharge the committee from further consideration of any other resolution with respect to such energy action which has been referred to the committee.

(B) A motion to discharge may be made only by an individual favoring the resolution, shall be highly privileged (except that it may not be made after the committee has reported a resolution with respect to the same energy action), and debate thereon shall be limited to not more than one hour, to be divided equally between those favoring and those opposing the resolution. An amendment to the motion shall not be in order, and it shall not be in order to move to reconsider the vote by which the motion was agreed to or disagreed to.

(C) If the motion to discharge is agreed to or disagreed to, the motion may not be renewed, nor may another motion to discharge the committee be made with respect to any other resolution with respect to the same energy action.

(5) (A) When the committee has reported, or has been discharged from further consideration of, a resolution, it shall be at any time thereafter in order (even though a previous motion to the same effect has been disagreed to) to move to proceed to the consideration of the resolution. The motion shall be highly privileged and shall not be

debatable. An amendment to the motion shall not be in order, and it shall not be in order to move to reconsider the vote by which the motion was agreed to or disagreed to.

(B) Debate on the resolution referred to in subparagraph (A) of this paragraph shall be limited to not more than 10 hours, which shall be divided equally between those favoring and those opposing such resolution. A motion further to limit debate shall not be debatable. An amendment to, or motion to recommit, the resolution shall not be in order, and it shall not be in order to move to reconsider the vote by which such resolution was agreed to or disagreed to; except that it shall be in order—

(i) to offer an amendment in the nature of a substitute, consisting of the text of a resolution described in paragraph (2) (A) of this subsection with respect to an energy action, for a resolution described in paragraph (2) (B) of this subsection with respect to the same such action, or

(ii) to offer an amendment in the nature of a substitute, consisting of the text of a resolution described in paragraph (2) (B) of this subsection with respect to an energy action, for a resolution described in paragraph (2) (A) of this subsection with respect to the same such action.

The amendments described in clauses (i) and (ii) of this subparagraph shall not be amendable.

(6) (A) Motions to postpone, made with respect to the discharge from committee, or the consideration of a resolution and motions to proceed to the consideration of other business, shall be decided without debate.

(B) Appeals from the decision of the Chair relating to the application of the rules of the Senate or the House of Representatives, as the case may be, to the procedure relating to a resolution shall be decided without debate.

(7) Notwithstanding any of the provisions of this subsection, if a House has approved a resolution with respect to an energy action, then it shall not be in order to consider in that House any other resolution with respect to the same such action.

EXPEDITED PROCEDURE FOR CONGRESSIONAL CONSIDERATION OF CERTAIN AUTHORITIES

SEC. 552. (a) Any contingency plan transmitted to the Congress pursuant to section 201(a) (1) shall bear an identification number and shall be transmitted to both Houses of Congress on the same day and to each House while it is in session.

(b) No such contingency plan may be considered approved for purposes of section 201(a) (2) of this Act unless between the date of transmittal and the end of the first period of 60 calendar days of continuous session of Congress after the date on which such action is transmitted to such House, each House of Congress passes a resolution described in subsection (d) (2).

(c) For the purpose of subsection (b) of this section—

(1) continuity of session is broken only by an adjournment of Congress sine die; and

(2) the days on which either House is not in session because of an adjournment of more than 3 days to a day certain are excluded in the computation of the 60-calendar-day period.

(d) (1) This subsection is enacted by Congress—

(A) as an exercise of the rulemaking power of the Senate and the House of Representatives, respectively, and as such it is deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House in the case of resolutions described by paragraph (2) of this subsection; and it supersedes other rules only to the extent that it is inconsistent therewith; and

(B) with full recognition of the constitutional right of either House to change the rules (so far as relating to the procedure of that House) at any time, in the same manner and to the same extent as in the case of any other rule of the House.

(2) For purposes of this subsection, the term “resolution” means only a resolution of either House of Congress the matter after the resolving clauses of which is as follows: “That the ----- approves the contingency plan numbered ----- submitted to the Congress on -----, 19---”, the first blank space therein being filled with the name of the resolving House and the other blank spaces being appropriately filled; but does not include a resolution which specifies more than one contingency plan.

(3) A resolution once introduced with respect to a contingency plan shall immediately be referred to a committee (and all resolutions with respect to the same contingency plan shall be referred to the same committee) by the President of the Senate or the Speaker of the House of Representatives, as the case may be.

(4) (A) If the committee to which a resolution with respect to a contingency plan has been referred has not reported it at the end of 20 calendar days after its referral, it shall be in order to move either to discharge the committee from further consideration of such resolution or to discharge the committee from further consideration of any other resolution with respect to such contingency plan which has been referred to the committee.

(B) A motion to discharge may be made only by an individual favoring the resolution, shall be highly privileged (except that it may not be made after the committee has reported a resolution with respect to the same contingency plan), and debate thereon shall be limited to not more than 1 hour, to be divided equally between those favoring and those opposing the resolution. An amendment to the motion shall not be in order, and it shall not be in order to move to reconsider the vote by which the motion was agreed to or disagreed to.

(C) If the motion to discharge is agreed to or disagreed to, the motion may not be renewed, nor may another motion to discharge the committee be made with respect to any other resolution with respect to the same contingency plan.

(5) (A) When the committee has reported, or has been discharged from further consideration of, a resolution, it shall be at any time thereafter in order (even though a previous motion to the same effect has been disagreed to) to move to proceed to the consideration of the resolution. The motion shall be highly privileged and shall not be debatable. An amendment to the motion shall not be in order, and it

shall not be in order to move to reconsider the vote by which the motion was agreed to or disagreed to.

(B) Debate on the resolution referred to in subparagraph (A) of this paragraph shall be limited to not more than 10 hours, which shall be divided equally between those favoring and those opposing such resolution. A motion further to limit debate shall not be debatable. An amendment to, or motion to recommit the resolution shall not be in order, and it shall not be in order to move to reconsider the vote by which such resolution was agreed to or disagreed to.

(6) (A) Motions to postpone, made with respect to the discharge from committee, or the consideration of a resolution and motions to proceed to the consideration of other business, shall be decided without debate.

(B) Appeals from the decision of the Chair relating to the application of the rules of the Senate or the House of Representatives, as the case may be, to the procedures relating to a resolution shall be decided without debate.

3. Defense Production Act Amendments of 1975

Partial text of Public Law 94-152 [S. 1537] 89 Stat. 810 approved December 16, 1975, as amended by Public Law 94-153 [H.R. 11027]. 89 Stat. 822, approved December 16, 1975; and by Public Law 94-220 [H.J. Res. 784], 90 Stat. 195, approved February 7, 1976.

AN ACT TO amend the Defense Production Act of 1950, as amended

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Defense Production Act Amendments of 1975".

* * * * *

SEC. 3. Section 708 of the Defense Production Act of 1950¹ is amended to read as follows:

* * * * *

"SEC. 708A. (a) Except as specifically provided in subsection (j) of this section and section 708(j) of this Act, no provision of this Act shall be deemed to convey to any person any immunity from civil or criminal liability, or to create defenses to actions, under the antitrust laws.

"(b) As used in this section—

"(1) The term 'international energy supply emergency' means any period (A) beginning on any date which the President determines allocation of petroleum products to nations participating in the international agreement is required by chapters III and IV of such program, and (B) ending on a date on which he determines such allocation is no longer required. Such a period may not exceed ninety days, but the President may establish one or more additional periods by making the determination under clause (A) of the preceding sentence. Any determination respecting the beginning or end of any such period shall be published in the Federal Register.

"(2) The term 'international agreement' means the Agreement on an International Energy Program, signed by the United States on November 18, 1974.²

"(3) The term 'Administrator' means the Administrator of the Federal Energy Administration.

"(4) The term 'petroleum products' means—

"(A) crude oil,

"(B) natural gas liquids and other liquids produced in association with crude oil or natural gas,

"(C) refined petroleum products, including but not limited to gasoline, kerosene, distillates, residual fuel oil, refined lubricating oil, and liquefied petroleum gases; and

"(D) blending agents and additives used in conjunction with crude oil and refined petroleum products.

¹ 50 U.S.C. App. 2158.

² For text, see Vol. III, Sec. I.

"(c) The requirements of this section shall be the sole procedures applicable to the development or implementation of voluntary agreements or plans of action to accomplish the objectives of the international agreement with respect to international allocation of petroleum products and the information system provided in such agreement, and to the availability of immunity from the antitrust laws respecting the development or implementation of such voluntary agreements or plans of action.

"(d) (1) To achieve the purposes of the international agreement with respect to international allocation of petroleum products and the information system provided in such agreement, the Administrator may provide for the establishment of such advisory committees as he determines are necessary. In addition to the requirements specified in this section, such advisory committees shall be subject to the provisions of the Federal Advisory Committee Act ³ and section 17 of the Federal Energy Administration Act of 1974 ⁴, whether or not such Acts or any provisions thereof expire or terminate during the term of this Act or of such committees, and, in all cases, such advisory committees shall be chaired by a Federal employee (other than an individual employed pursuant to section 3109 of title 5, United States Code) and shall include representatives of the public, and the meetings of such committees shall be open to the public. The Attorney General and the Federal Trade Commission shall have adequate advance notice of any meeting and may have an official representative attend and participate in any such meeting.

"(2) A full and complete verbatim transcript shall be kept of such advisory committee meetings, and shall be taken and deposited, together with any agreement resulting therefrom with the Attorney General and the Federal Trade Commission. Such transcript and agreement shall be made available for public inspection and copying, subject to the provisions of sections 552 (b) (1) and (b) (3) of title 5, United States Code.

"(3) For the purposes of this section, the provisions of subsection (a) of section 17 of the Federal Energy Administration Act of 1974 ⁴ shall apply to any board, task force, commission, committee, or similar group, not composed entirely of full-time Federal employees (other than individuals employed pursuant to section 3109 of title 5, United States Code) established or utilized to advise the United States Government with respect to the development or implementation of any agreement or plan of action under the international agreement.

"(e) The Administrator, subject to the approval of the Attorney General, after both of them have consulted with the Federal Trade Commission and the Secretary of State, shall promulgate, by rule, standards and procedures by which persons engaged in the business of producing, refining, marketing, or distributing petroleum products may develop and implement voluntary agreements and plans of action which are required to implement the provisions of the international agreement which relate to international allocation of petroleum products and the information system provided in such agreement.

³ 5 U.S.C. App. I.

⁴ 15 U.S.C. 776.

“(f) The standards and procedures under subsection (e) shall be promulgated pursuant to section 553 of title 5, United States Code. They shall provide, among other things, that—

“(1) (A) Meetings held to develop or implement a voluntary agreement or plan of action under this section shall permit attendance by interested persons, including all interested segments of the petroleum industry, consumers, committees of Congress, and the public, shall be preceded by timely and adequate notice with identification of the agenda of such meeting to the Attorney General, the Federal Trade Commission, committees of Congress and (except during an international energy supply emergency) to the public, and shall be initiated and chaired by a Federal employee other than an individual employed pursuant to section 3109 of title 5, United States Code; except that (i) meetings of bodies created by the International Energy Agency established by the international agreement need not be open to interested persons and need not be initiated and chaired by a Federal employee, and (ii) the Administrator, in consultation with the Secretary of State and the Attorney General, may determine that a meeting held to implement or carry out an agreement or plan of action shall not be public and that attendance may be limited, subject to reasonable representation of affected segments of the petroleum industry (as determined by the Administrator, after consultation with the Attorney General) if he finds that a wider disclosure would be detrimental to the foreign policy interests of the United States.

“(B) No meetings may be held to develop or implement a voluntary agreement or plan of action under this section, unless a Federal employee other than an individual employed pursuant to section 3109 of title 5, United States Code, is present; except that during an international energy supply emergency, a meeting to implement such an agreement or plan of action may be held outside the presence of such an employee (and need not be initiated or chaired by such an employee) if prior consent is granted by the Administrator and the Attorney General. The Administrator and the Attorney General shall each make a written record of the granting of any such prior consent.

“(2) Interested persons permitted to attend such a meeting shall be afforded an opportunity to present in writing and orally, data, views, and arguments at such meetings.

“(3) A verbatim transcript or, if keeping a verbatim transcript is not practicable, full and complete notes or minutes shall be kept of any meeting held or communication made to develop or implement a voluntary agreement or plan of action under this section, between or among persons who are parties to such a voluntary agreement, or with respect to meetings held or communications made to develop a voluntary agreement; except that, during any international energy supply emergency, in lieu of minutes or a transcript, a log may be kept containing a notation of the parties to, and subject matter of, any such communication (other than in the course of such a meeting). Such minutes, notes, transcript, or log shall be deposited, together with any agreement

resulting therefrom, with the Administrator, and shall be available to the Attorney General and the Federal Trade Commission. Such minutes, notes, transcripts, logs, and agreements shall be available for public inspection and copying, except as otherwise provided in section 552 (b) (1) and (b) (3) of title 5, United States Code, or pursuant to a determination by the Administrator, in consultation with the Secretary of State and the Attorney General, that such disclosure would be detrimental to the foreign policy interests of the United States.

No provision of this section may be exercised so as to prevent committees of Congress from attending meetings to which this subsection applies, or from having access to any transcripts or minutes of such meetings, or logs of communication.

* * * * *

“(j) (1) There shall be available as a defense for any person to any civil or criminal action brought for violation of the antitrust laws (or any similar law of any State) with respect to any act or omission to act to develop or carry out any voluntary agreement under this section that—

“(A) such act or omission to act was taken in good faith by that person—

“(i) in the course of developing a voluntary agreement under this section, or

“(ii) to carry out a voluntary agreement under this section; and

“(B) such person fully complied with this section and the rules promulgated hereunder, and acted in accordance with the terms of the voluntary agreement.

“(2) In any action in any Federal or State court for breach of contract there shall be available as a defense that the alleged breach of contract was caused solely by action taken during an international energy supply emergency in accordance with a voluntary agreement authorized and approved under the provisions of this section.

* * * * *

“(1) (1) The Administrator, after consultation with the Secretary of State, shall report annually to the President and the Congress on the performance under voluntary agreements or plans of action to accomplish the objectives of the international agreement with respect to international allocation of petroleum products and the information system provided in such agreement.

“(2) The Attorney General and the Federal Trade Commission shall each submit to the Congress and to the President, at least once every six months, reports on the impact on competition and on small business of actions authorized by this section.

“(m) The authorities contained in this section with respect to the executive agreement, commonly known as the Agreement on an International Energy Program dated November 18, 1974, and referred to in this section as the international energy agreement, shall not be construed in any way as advice and consent, ratification, endorsement, or any other form of congressional approval of the specific terms of such executive agreement or any related annex, protocol, amendment, modi-

fication, or other agreement which has been or may in the future be entered into.

* * * * *

"(o) If S. 622, Ninety-fourth Congress (the Energy Policy and Conservation Act) is enacted⁵ then (effective on the effective date of the provisions of S. 622 which relate to international voluntary agreements to carry out the International Energy Program) this section and section 708 shall not be applicable to (1) any voluntary agreement or plan of action developed or implemented to carry out obligations of the United States under the international agreement, or (2) any voluntary agreement or plan of action which relates to petroleum products and which is developed, in whole or in part, to carry out the purposes of a treaty or executive agreement to which the United States is a party or to implement a program of international cooperation between the United States and one or more foreign countries."

* * * * *

SEC. 9.⁶ This Act and the amendments made by it shall take effect at the close of November 30, 1975, except that the amendment made by section 3 shall take effect upon the one hundred and twentieth day beginning after the date of its enactment.

⁵ S. 622 became Public Law 94-163 on December 22, 1975. See p. 290 for partial text.

⁶ Public Law 94-220 amended Sec. 9 which formerly read as follows:

"Sec. 9. This Act and the amendments made by it shall take effect on the one hundred and twentieth day beginning after the date of its enactment, except that the amendment made by section 2 shall take effect upon the close of November 30, 1975."

4. Negotiations With Canada Concerning the Alaskan Pipeline

Partial text of Public Law 93-153 [S. 1081], 87 Stat. 576 at 588, approved
November 16, 1973

AN ACT To amend section 28 of the Mineral Leasing Act of 1920, and to
authorize a trans-Alaska oil pipeline, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the
United States of America in Congress assembled,*

* * * * *

TITLE III—NEGOTIATIONS WITH CANADA

SEC. 301. The President of the United States is authorized and
requested to enter into negotiations with the Government of Canada to
determine—

(a) the willingness of the Government of Canada to permit the
construction of pipelines or other transportation systems across
Canadian territory for the transport of natural gas and oil from
Alaska's North Slope to markets in the United States, including
the use of tankers by way of the Northwest Passage;

(b) the need for intergovernmental understandings, agree-
ments, or treaties to protect the interests of the Governments of
Canada and the United States and any party or parties involved
with the construction, operation, and maintenance of pipelines
or other transportation systems for the transport of such natural
gas or oil;

(c) the terms and conditions under which pipelines or other
transportation systems could be constructed across Canadian
territory;

(d) the desirability of undertaking joint studies and investi-
gations designed to insure protection of the environment, reduce
legal and regulatory uncertainty, and insure that the respective
energy requirements of the people of Canada and of the United
States are adequately met;

(e) the quantity of such oil and natural gas from the North
Slope of Alaska for which the Government of Canada would
guarantee transit; and

(f) the feasibility, consistent with the needs of other sections
of the United States, of acquiring additional energy from other
sources that would make unnecessary the shipment of oil from
the Alaska pipeline by tanker into the Puget Sound area.

The President shall report to the House and Senate Committees on
Interior and Insular Affairs the actions taken, the progress achieved,
the areas of disagreement, and the matters about which more informa-
tion is needed, together with his recommendations for further action.

* * * * *

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1. The United Nations Participation Act of 1945, as amended¹

Public Law 79-264 [S. 1580], 59 Stat. 619; 22 U.S.C. 287-287e, approved December 20, 1945, as amended by Public Law 81-216 [H.R. 5632], 63 Stat. 578, approved August 10, 1949; Public Law 81-341 [H.R. 4708], 63 Stat. 734; approved October 10, 1949; Public Law 86-707 [H.R. 7758], 74 Stat. 792, approved September 6, 1960; Public Law 89-206 [S. 1903], 79 Stat. 841, approved September 28, 1965; Public Law 93-126 [H.R. 7645], 87 Stat. 451, approved October 18, 1973; and by Public Law 95-12 [H.R. 1746], 91 Stat. 22, approved March 18, 1977

AN ACT To provide for the appointment of representatives of the United States in the organs and agencies of the United Nations, and to make other provision with respect to the participation of the United States in such organization.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "United Nations Participation Act of 1945".

Sec. 2. (a)² The President, by and with the advice and consent of the Senate, shall appoint a representative of the United States to the United Nations who shall have the rank and status of Ambassador Extraordinary and Plenipotentiary and shall hold office at the pleasure of the President. Such representative shall represent the United States in the Security Council of the United Nations and may serve *ex officio* as representative of the United States in any organ, commission, or other body of the United Nations other than specialized agencies of the United Nations, and shall perform such other functions in connection with the participation of the United States in the United Nations as the President may, from time to time, direct.

(b)¹ The President, by and with the advice and consent of the Senate, shall appoint additional persons with appropriate titles, rank, and status to represent the United States in the principal organs of the United Nations and in such organs, commissions, or other bodies as may be created by the United Nations with respect to nuclear energy or disarmament (control and limitation of armament). Such persons shall serve at the pleasure of the President and subject to the direction of the Representative of the United States to the United Nations. They shall, at the direction of the Representative of the United States to the United Nations, represent the United States in any organ, commission, or other body of the United Nations, including the Security Council, the Economic and Social Council, and the Trusteeship Council, and perform such other functions as the Representative of the United States is authorized to perform in connection with the participation of the United States in the United Nations. Any Deputy Representative or any other officer holding office at the time the pro-

¹ Sec. 503 of the Foreign Relations Authorization Act, Fiscal Year 1978 (91 Stat. 858), called on the United States to initiate major reforms in the United Nations system in order to make that body "more effective in resolving global problems." For text of Sec. 503, including specific proposals for U.S. action, see page 454.

² As amended and restated by sec. 1(a) of Public Law 89-206, 79 Stat. 841; 22 U.S.C. 287). Previously amended and restated by sec. 2 of Public Law 81-341 (63 Stat. 734).

visions of this Act, as amended, become effective shall not be required to be reappointed by reason of the enactment of this Act, as amended.

(c)³ The President, by and with the advice and consent of the Senate, shall designate from time to time to attend a specified session or specified sessions of the General Assembly of the United Nations not to exceed five representatives of the United States and such number of alternates as he may determine consistent with the rules of procedure of the General Assembly. One of the representatives shall be designated as the senior representative.

(d)⁴ The President may also appoint from time to time such other persons as he may deem necessary to represent the United States in organs and agencies of the United Nations. The President may, without the advice and consent of the Senate, designate any officer of the United States to act without additional compensation as the representative of the United States in either the Economic and Social Council or the Trusteeship Council (1) at any specified session thereof where the position is vacant or in the absence or disability of the regular representative or (2) in connection with a specified subject matter at any specified session of either such Council in lieu of the regular representative. The President may designate any officer of the Department of State, whose appointment is subject to confirmation by the Senate, to act, without additional compensation, for temporary periods as the representative of the United States in the Security Council of the United Nations in the absence or disability of the representatives provided for under section 2 (a) and (b) or in lieu of such representatives in connection with a specified subject matter.

(e)⁵ The President, by and with the advice and consent of the Senate, shall appoint a representative of the United States to the European office of the United Nations with appropriate rank and status who shall serve at the pleasure of the President and subject to the direction of the Secretary of State. Such person shall, at the direction of the Secretary of State, represent the United States at the European office of the United Nations, and perform such other functions there in connection with the participation of the United States in international organizations as the Secretary of State may, from time to time, direct.

(f)⁵ Nothing contained in this section shall preclude the President or the Secretary of State, at the direction of the President, from representing the United States at any meeting or session of any organ or agency of the United Nations.

(g)⁵ All persons appointed in pursuance of authority contained in this section shall receive compensation at rates determined by the President upon the basis of duties to be performed but not in excess of rates authorized by sections 411 and 412 of the Foreign Service Act of 1946 (Public Law 724, Seventy-ninth Congress) for chiefs of mission and Foreign Service officers occupying positions of equivalent importance, except that no Member of the Senate or House of Representatives or officer of the United States who is designated under subsections (c) and (d) of this section as a representative of the

³ As amended and restated by sec. 1 of Public Law 81-341 (63 Stat. 734).

⁴ As amended and restated by sec. 1(b) of Public Law 89-206, 79 Stat. 841 (September 28, 1965). Previously amended and restated by sec. 1 of Public Law 81-341 (63 Stat. 735).

⁵ Subsecs. (e) and (f) were redesignated subsecs. (f) and (g) respectively, and a new subsec. (e) was added by sec. 2 of Public Law 89-206 (79 Stat. 841; 22 U.S.C. 287). The present sec. (g) was originally added by sec. 2 of Public Law 81-341.

United States or as an alternate to attend any specified session or specified sessions of the General Assembly shall be entitled to receive such compensation.

Sec. 3.⁶ The representatives provided for in section 2 hereof, when representing the United States in the respective organs and agencies of the United Nations, shall, at all times, act in accordance with the instructions of the President transmitted by the Secretary of State unless other means of transmission is directed by the President, and such representatives shall, in accordance with such instructions, cast any and all votes under the Charter of the United Nations.

Sec. 4.⁷ The President shall, from time to time as occasion may require, but not less than once each year, make reports to the Congress of the activities of the United Nations and of the participation of the United States therein. He shall make special current reports on decisions of the Security Council to take enforcement measures under the provisions of the Charter of the United Nations, and on the participation therein, under his instructions, of the representative of the United States.

Sec. 5.⁸ (a) Notwithstanding the provisions of any other law, whenever the United States is called upon by the Security Council to apply measures which said Council has decided, pursuant to article 41 of said Chapter, are to be employed to give effect to its decisions under said Charter, the President may, to the extent necessary to apply such measures, through any agency which he may designate, and under such orders, rules, and regulations as may be prescribed by him, investigate, regulate, or prohibit, in whole or in part, economic relations or rail, sea, air, postal, telegraphic, radio, and other means of communication between any foreign country or any national thereof or any person therein and the United States or any person subject to the jurisdiction thereof, or involving any property subject to the jurisdiction of the United States. Any Executive order which is issued under this subsection and which applies measures against Southern Rhodesia pursuant to any United Nations Security Council Resolution may be enforced, notwithstanding the provisions of any other law.⁹ The President may exempt from such Executive order any shipment of chromium in any form which is in transit to the United States on the date of enactment of this sentence.¹⁰

(b) Any person who willfully violates or evades or attempts to violate or evade any order, rule, or regulation issued by the President pursuant to paragraph (a) of this section shall, upon conviction, be fined not more than \$10,000 or, if a natural person, be imprisoned for not more than ten years, or both; and the officer, director, or agent of any corporation who knowingly participates in such violation or evasion shall be punished by a like fine, imprisonment, or both, and any property, funds, securities, papers, or other articles or documents, or any vessel, together with her tackle, apparel, furniture, and equipment, or vehicle, or aircraft,¹¹ concerned in such violation shall be forfeited to the United States.

⁶ 22 U.S.C. 287a.

⁷ 22 U.S.C. 287b.

⁸ 22 U.S.C. 287c. See also text of Executive Order 11419 on page 327 and partial text of Public Law 92-156 on page 330.

⁹ Such an Executive order was issued on March 18, 1977, E.O. 11978 (amending E.O. 11419). For text, see Sec. 4(c) of E.O. 11419, page 329.

¹⁰ The final two sentences of subsection (a) were added by Public Law 95-12 (91 Stat. 22).

¹¹ The words "or aircraft" added by sec. 3 of Public Law 81-341 (63 Stat. 735).

(c)¹² (1) During the period in which measures are applied against Southern Rhodesia under subsection (a) pursuant to any United Nations Security Council Resolution, a shipment of any steel mill product (as such product may be defined by the Secretary) containing chromium in any form may not be released from customs custody for entry into the United States if—

(A) a certificate of origin with respect to such shipment has not been filed with the Secretary; or

(B) in the case of a shipment with respect to which a certificate of origin has been filed with the Secretary, the Secretary determines that the information contained in such certificate does not adequately establish that the steel mill product in such shipment does not contain chromium in any form which is of Southern Rhodesian origin;

unless such release is authorized by the Secretary under paragraph (3) (B) or (C).

(2) The Secretary shall prescribe regulations for carrying out this subsection.

(3) (A) In carrying out this subsection, the Secretary may issue subpoenas requiring the attendance and testimony of witnesses and the production of evidence. Any such subpoena may, upon application by the Secretary, be enforced in a civil action in an appropriate United States district court.

(B) The Secretary may exempt from the certification requirements of this subsection any shipment of a steel mill product containing chromium in any form which is in transit to the United States on the date of enactment of this subsection.

(C) Under such circumstances as he deems appropriate, the Secretary may release from customs custody for entry into the United States, under such bond as he may require, any shipment of a steel mill product containing chromium in any form.

(4) As used in this subsection—

(A) the term “certificate of origin” means such certificate as the Secretary may require, with respect to a shipment of any steel mill product containing chromium in any form, issued by the government (or by a designee of such government if the Secretary is satisfied that such designee is the highest available certifying authority) of the country in which such steel mill product was produced certifying that the steel mill product in such shipment contains no chromium in any form which is of Southern Rhodesian origin; and

(B) the term “Secretary” means the Secretary of the Treasury.

Sec. 6.¹³ The President is authorized to negotiate a special agreement or agreements with the Security Council which shall be subject to the approval of the Congress by appropriate Act or joint resolution, providing for the numbers and types of armed forces, their degree of readiness and general locations, and the nature of facilities and assistance, including rights of passage, to be made available to the Security

¹² Subsection (c) was added by Public Law 95-12 (91 Stat. 22).

¹³ 22 U.S.C. 287d.

Council on its call for the purpose of maintaining international peace and security in accordance with article 43 of said Charter. The President shall not be deemed to require the authorization of the Congress to make available to the Security Council on its call in order to take action under article 42 of said Charter and pursuant to such special agreement or agreements the armed forces, facilities, or assistance provided for therein: *Provided*, That, except as authorized in section 7 of this Act,¹⁴ nothing herein contained shall be construed as an authorization to the President by the Congress to make available to the Security Council for such purpose armed forces, facilities, or assistance in addition to the forces, facilities, and assistance provided for in such special agreement or agreements.

Sec. 7.¹⁵ (a) Notwithstanding the provisions of any other law, the President, upon the request by the United Nations for cooperative action, and to the extent that he finds that it is consistent with the national interest to comply with such request, may authorize, in support of such activities of the United Nations as are specifically directed to the peaceful settlement of disputes and not involving the employment of armed forces contemplated by chapter VII of the United Nations Charter—

(1) the detail to the United Nations, under such terms and conditions as the President shall determine, of personnel of the armed forces of the United States to serve as observers, guards, or in any noncombatant capacity, but in no event shall more than a total of one thousand of such personnel be so detailed at any one time: *Provided*, That while so detailed, such personnel shall be considered for all purposes as acting in the line of duty, including the receipt of pay and allowances as personnel of the armed forces of the United States, credit for longevity and retirement, and all other perquisites appertaining to such duty: *Provided further*, That upon authorization or approval by the President, such personnel may accept directly from the United Nations (a) any or all of the allowances or perquisites to which they are entitled under the first proviso hereof, and (b) extraordinary expenses and perquisites incident to such detail;

(2) the furnishing of facilities, services, or other assistance and the loan of the agreed fair share of the United States of any supplies and equipment to the United Nations by the Department of Defense, under such terms and conditions as the President shall determine;

(3) the obligation, insofar as necessary to carry out the purposes of clauses (1) and (2) of this subsection, of any funds appropriated to the Department of Defense or any department therein, the procurement of such personnel, supplies, equipment, facilities, services, or other assistance as may be made available in accordance with the request of the United Nations, and the replacement of such items, when necessary, where they are furnished from stocks.

¹⁴ The words "except as authorized in section 7 of this Act" added by sec. 4 of Public Law 81-341 (63 Stat. 735).

¹⁵ Added by sec. 5 of Public Law 81-341 (63 Stat. 735; 22 U.S.C. 287d-1). Section 12(a) of Public Law 81-216 (63 Stat. 591), changed the term "National Military Establishment" to "Department of Defense".

(b) Whenever personnel or assistance is made available pursuant to the authority contained in subsection (a) (1) and (2) of this section, the President shall require reimbursement from the United Nations for the expense thereby incurred by the United States: *Provided*, That in exceptional circumstances, or when the President finds it to be in the national interest, he may waive, in whole or in part, the requirement of such reimbursement: *Provided further*, That when any such reimbursement is made, it shall be credited, at the option of the appropriate department of the Department of Defense, either to the appropriation, fund, or account utilized in incurring the obligation, or to an appropriate appropriation, fund, or account currently available for the purposes for which expenditures were made.

(c) In addition to the authorization of appropriations to the Department of State contained in section 8 of this Act, there is hereby authorized to be appropriated to the Department of Defense, or any department therein, such sums as may be necessary to reimburse such departments in the event that reimbursement from the United Nations is waived in whole or in part pursuant to authority contained in subsection (b) of this section.

(d) Nothing in this Act shall authorize the disclosure of any information or knowledge in any case in which such disclosure is prohibited by any other law of the United States.

Sec. 8.¹⁶ There is hereby authorized to be appropriated annually to the Department of State, out of any money in the Treasury not otherwise appropriated, such sums as may be necessary for the payment by the United States of its share of the expenses of the United Nations as apportioned by the General Assembly in accordance with article 17 of the Charter, and for all necessary salaries and expenses of the representatives provided for in section 2 hereof, and of their appropriate staffs, including personal services in the District of Columbia and elsewhere, without regard to the civil-service laws and the Classification Act of 1923, as amended;¹⁷ travel expenses without regard to the Standardized Government Travel Regulations, as amended, the Travel Expense Act of 1949,¹⁸ and section 10 of the Act of March 3, 1933, as amended,¹⁹ and, under such rules and regulations as the Secretary of State may prescribe, travel expenses of families and transportation of effects of United States representatives and other personnel in going to and returning from their post of duty; allowances for living quarters, including heat, fuel, and light, as authorized by the Act approved June 26, 1930 (5 U.S.C. 118a);²⁰ cost-of-living allowances for personnel stationed abroad under such rules and regulations as the Secretary of State may prescribe; communica-

¹⁶ 22 U.S.C. 287e. This was formerly sec. 7, but was renumbered sec. 8 by sec. 6 of Public Law 81-341 (63 Stat. 736).

Section 410 of the Foreign Assistance Act of 1971, Public Law 92-226, approved February 7, 1972, provides as follows:

"The Congress strongly urges the President to undertake such negotiations as may be necessary to implement that portion of the recommendations of the Report of the President's Commission for the Observance of the Twenty-fifth Anniversary of the United Nations (known as the "Lodge Commission") which proposes that the portion of the regular assessed costs to be paid by the United States to the United Nations be reduced so that the United States is assessed in each year not more than 25 per centum of such costs assessed all members of the United Nations for that year."

¹⁷ Classification Act of 1923, as amended, is now the Classification Act of 1949, as amended (5 U.S.C. 305, 5101-5113, 5115, 5331-5338, 5341, 5342, 5509, 7154).

¹⁸ Travel Expense Act of 1949 is now amended (5 U.S.C. 5701, 5702, 5704-5708).

¹⁹ Section 10 of the Act of March 3, 1933, as amended (5 U.S.C. 5731).

²⁰ Act of June 26, 1930, is now amended (5 U.S.C. 5912).

tions services; stenographic reporting, translating, and other services, by contract; hire of passenger motor vehicles and other local transportation; rent of offices; printing and binding without regard to section 11 of the Act of March 1, 1949 (44 U.S.C. 111); allowances and expenses as provided in section 6 of the Act of July 30, 1946 (Public Law 565, Seventy-ninth Congress),²¹ and allowances and expenses equivalent to those provided in section 901(3) of the Foreign Service Act of 1946 (Public Law 724, Seventy-ninth Congress);²² the lease or rental (for periods not exceeding ten years) of living quarters for the use of the representative of the United States to the United Nations referred to in paragraph (a) of section 2 hereof, the cost of installation and use of telephones in the same manner as telephone service is provided for use of the Foreign Service pursuant to the Act of August 23, 1912, as amended (31 U.S.C. 679), and²³ unusual expenses similar to those authorized by section 22 of the Administrative Expenses Act of 1946, as amended²⁴ by section 311 of the Overseas Differentials and Allowances Act, incident to the operation and maintenance of such living quarters; and such other expenses as may be authorized by the Secretary of State; and without regard to section 3709 of the Revised Statutes as amended (41 U.S.C. 5).

Sec. 9.²⁵ The President may, under such regulations as he shall prescribe, and notwithstanding section 3648 of the Revised Statutes (31 U.S.C. 529) and section 5536 of title 5, United States Code—

“(1) grant any employee of the staff of the United States Mission to the United Nations designated by the Secretary of State who is required because of important representational responsibilities to live in the extraordinarily high-rent area immediately surrounding the headquarters of the United Nations in New York, New York, an allowance to compensate for the portion of expenses necessarily incurred by the employee for quarters and utilities which exceed the average of such expenses incurred by typical, permanent residents of the Metropolitan New York, New York, area with comparable salary and family size who are not compelled by reason of their employment to live in such high-rent area; and

“(2) provide such allowance as the President considers appropriate, to each Delegate and Alternate Delegate of the United States to any session of the General Assembly of the United Nations who is not a permanent member of the staff of the United States Mission to the United Nations, in order to compensate each such Delegate or Alternate Delegate for necessary housing and subsistence expenses incurred by him with respect to attending any such session.

Not more than forty-five employees shall be receiving an allowance under paragraph (1) of this section at any one time.

²¹ Section 6 of the Act of July 30, 1946, as amended (22 U.S.C. 287r).

²² Section 901(3) of the Foreign Service Act of 1946 is now codified as 5 U.S.C. 5921-5925 by Public Law 89-554, 80 Stat. 378 at 510, September 6, 1966.

²³ Section 311(b) of Public Law 86-707 substituted the phrase “and unusual expenses . . .” for the previous clause.

²⁴ Section 22 of the Administrative Expenses Act of 1946, as amended, is now codified as 5 U.S.C. 5913 by Public Law 89-554, 80 Stat. 378 at 510, September 6, 1966.

²⁵ Added by sec. 15 of Public Law 93-126 (87 Stat. 454).

2. The United Nations Headquarters Agreement Act

Public Law 80-357 [S.J. Res. 144], 61 Stat. 756, approved August 4, 1947

JOINT RESOLUTION authorizing the President to bring into effect an agreement between the United States and the United Nations for the purpose of establishing the permanent headquarters of the United Nations in the United States and authorizing the taking of measures necessary to facilitate compliance with the provisions of such agreement, and for other purposes.¹

Whereas the Charter of the United Nations was signed on behalf of the United States on June 26, 1945, and was ratified on August 8, 1945, by the President of the United States, by and with the advice and consent of the Senate, and the instrument of ratification of the said Charter was deposited on August 8, 1945; and

Whereas the said Charter of the United Nations came into force with respect to the United States on October 24, 1945; and

Whereas article 104 of the Charter provides that "The Organization shall enjoy in the territory of each of its Members such legal capacity as may be necessary for the exercise of its functions and the fulfillment of its purposes"; and

Whereas article 105 of the Charter provides that :

"1. The Organization shall enjoy in the territory of each of its Members such privileges and immunities as are necessary for the fulfillment of its purposes.

"2. Representatives of the Members of the United Nations and officials of the Organization shall similarly enjoy such privileges and immunities as are necessary for the independent exercise of their functions in connection with the Organization.

"3. The General Assembly may make recommendations with a view to determining the details of the application of paragraphs 1 and 2 of this article or may propose conventions to the Members of the United Nations for this purpose."; and

Whereas article 28 and other articles of the Charter of the United Nations contemplate the establishment of a seat for the permanent headquarters of the Organization; and

Whereas the interim arrangements concluded on June 26, 1945, by the governments represented at the United Nations Conference on International Organization instructed the Preparatory Commission established in pursuance of the arrangements to "make studies and prepare recommendations concerning the location of the permanent headquarters of the Organization"; and

Whereas during the labors of the said Preparatory Commission, the Congress of the United States in H. Con. Res. 75, passed unanimously by the House of Representatives December 10, 1945, and agreed to unanimously by the Senate December 11, 1945, invited the United Nations "to locate the seat of the United Nations Organization within the United States"; and

¹ 22 U.S.C. 287 footnote.

Whereas the General Assembly on December 14, 1946, resolved "that the permanent headquarters of the United Nations shall be established in New York City in the area bounded by First Avenue, East Forty-eighth Street, the East River, and East Forty-second Street"; and

Whereas the General Assembly resolved on December 14, 1946, "That the Secretary-General be authorized to negotiate and conclude with the appropriate authorities of the United States of America an agreement concerning the arrangements required as a result of the establishment of the permanent headquarters of the United Nations in the city of New York" and to be guided in these negotiations by the provisions of a preliminary draft agreement which had been negotiated by the Secretary-General and the Secretary of State of the United States; and

Whereas the General Assembly resolved on December 14, 1946, that pending the coming into force of the agreement referred to above "the Secretary-General be authorized to negotiate and conclude arrangements with the appropriate authorities of the United States of America to determine on a provisional basis the privileges, immunities, and facilities needed in connection with the temporary headquarters of the United Nations"; and

Whereas the Secretary of State of the United States, after consultation with the appropriate authorities of the State and city of New York, signed at Lake Success, New York, on June 26, 1947, on behalf of the United States an agreement with the United Nations regarding the headquarters of the United Nations, which agreement is incorporated herein; and

Whereas the aforesaid agreement provides that it shall be brought into effect by an exchange of notes between the United States and the Secretary-General of the United Nations: Therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President is hereby authorized to bring into effect on the part of the United States the agreement between the United States of America and the United Nations regarding the headquarters of the United Nations, signed at Lake Success, New York, on June 26, 1947 (hereinafter referred to as the "agreement"), with such changes therein not contrary to the general tenor thereof and not imposing any additional obligations on the United States as the President may deem necessary and appropriate, and at his discretion, after consultation with the appropriate State and local authorities, to enter into such supplemental agreements with the United Nations as may be necessary to fulfill the purposes of the said agreement: *Provided*, That any supplemental agreement entered into pursuant to section 5 of the agreement incorporated herein shall be submitted to the Congress for approval. The agreement follows:

3. Appropriations Limitation on Contributions to International Organizations¹

Partial text of Public Law 92-544 [H.R. 14989], 86 Stat. 1109, 1110, approved October 25, 1972

AN ACT Making appropriations for the Departments of State, Justice, and Commerce, the Judiciary, and related agencies for the fiscal year ending June 30, 1973, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the Departments of State, Justice, and Commerce, the Judiciary, and related agencies for the fiscal year ending June 30, 1973, and for other purposes, namely:

* * * * *

CONTRIBUTIONS TO INTERNATIONAL ORGANIZATIONS¹

* * * *Provided*, That after December 31, 1973, no appropriation is authorized and no payment shall be made to the United Nations or any affiliated agency in excess of 25 per centum¹ of the total annual assessment of such organization. Appropriations are authorized and

¹ Restriction in Public Law 82-495, 66 Stat. 550, July 10, 1952. Department of State Appropriation Act, 1953, is considered permanent legislation with respect to the international organizations not exempted. See 22 U.S.C. 262b. It reads as follows:

"No representative of the United States Government in any international organization after fiscal year 1953 shall make any commitment requiring the appropriation of funds for a contribution by the United States in excess of 33½ per centum of the budget of any international organization for which the appropriation for the United States contribution is contained in this Act: *Provided*, That in exceptional circumstances necessitating a contribution by the United States in excess of 33½ per centum of the budget, a commitment requiring a United States appropriation of a larger proportion may be made after consultation by United States representatives in the organization or other appropriate officials of the Department of State with the Committees on Appropriations of the Senate and House of Representatives: *Provided, however*, That this section shall not apply to the United States representatives to the Inter-American organizations, Caribbean Commission and the Joint Support program of the International Civil Aviation Organization."

This provision was first included in section 602 of Public Law 82-188, 65 Stat. 599, October 22, 1951, Departments of State, Justice, Commerce, and the Judiciary Appropriation Act, 1952.

The exemption granted to the Caribbean Commission and the Joint Support program of the International Civil Aviation Organization was added by Public Law 83-195, 67 Stat. 368, August 5, 1953. Department of State Appropriation Act, 1954.

NOTE: In addition, there are specific legislative limitations on the percentage contribution of the United States to the following organizations:

(1) 33½ percent to the World Health Organization (Act of July 14, 1948; 22 U.S.C. 290(b)). However, Sec. 103 of the Foreign Relations Authorization Act, Fiscal Year 1978 (91 Stat. 844), stated that notwithstanding the provisions of Public Law 92-544, §7,281,583 of the FY 1978 appropriation authorization for "International Organizations and Conferences" is authorized to be paid to the World Health Organization for any unpaid balance of the U.S. assessed contribution to such organization for the calendar years 1974 through 1977. See page 446 for complete text;

(2) 33½ percent to the Food and Agriculture organization (Act of July 31, 1945; 22 U.S.C. 279a);

(3) 25 percent to the International Labor Organization (Act of June 30, 1948; 22 U.S.C. 272a);

(4) 25 percent to the NATO Parliamentary Conference (Act of July 11, 1956; 22 U.S.C. 1928b); and

(5) Not to exceed 20 per centum of the total contributions assessed for any period to administer the International Coffee Agreement (TIAS 5505; 14 UST 1911, September 28, 1962), and such amount shall not exceed \$150,000 for any fiscal year, to the International Coffee Organization (section 6 of Public Law 89-23, 79 Stat. 113, approved May 22, 1965).

contributions and payments may be made to the following organizations and activities notwithstanding that such contributions and payments are in excess of 25 per centum of the total annual assessment of the respective organization or $33\frac{1}{3}$ per centum of the budget for the respective activity: the International Atomic Energy Agency, the joint financing program of the International Civil Aviation Organization, and contributions for international peacekeeping activities conducted by or under the auspices of the United Nations or through multilateral agreements.²

* * * * *

² Sec. 203 of Public Law 94-141, Foreign Relations Authorization Act, Fiscal Year 1976, inserted a period after "organization", struck out the text following it, and inserted the language beginning with "Appropriations are authorized". Formerly, the section following "organization" read "except that this proviso shall not apply to the International Atomic Energy Agency and to the joint financing program of the International Civil Aviation Organization."

For further limitations on contributions see the Foreign Assistance Act of 1961, as amended Sec. 301(b) regarding United Nations Development Program and Sec. 302(h) regarding UNESCO. Public Law 94-441 (90 Stat. 1465) appropriated \$187,000,000 for contributions to international organizations for fiscal year 1977.

4. Rhodesia Resolution

a. To Halt the Importation of Rhodesian Chrome

Partial text of Public Law 95-12 [H.R. 1746], 91 Stat. 22, approved March 18, 1977

AN ACT To amend the United Nations Participation Act of 1945 to halt the importation of Rhodesian chrome.

* * * * *

Sec. 2. (a) Upon the enactment of this Act, the President may suspend the operation of the amendments contained in this Act¹ if he determines that such suspension would encourage meaningful negotiations and further the peaceful transfer of governing power from minority rule to majority rule in Southern Rhodesia. Such suspension shall remain in effect for such duration as deemed necessary by the President.

(b) If the President suspends the operation of the amendments contained in this Act, he shall so report to the Congress. In addition, the President shall report to the Congress when he terminates such suspension.

(c) If the President suspends the operation of the amendments contained in this Act, any reference in those amendments to date of enactment shall be deemed to be a reference to the date on which such suspension is terminated by the President.

¹ All amendments contained in this Act are incorporated into Sec. 5 of the United Nations Participation Act of 1945. For text of Sec. 5, see page 317.

b. Executive Order 11419, as amended ¹

Executive Order 11419, July 19, 1968, 33 F.R. 10837, 3 CFR 1966-70 Comp., p. 737,
as amended by Executive Order 11978, March 18, 1977, 42 F.R. 15403

RELATING TO TRADE AND OTHER TRANSACTIONS INVOLVING SOUTHERN RHODESIA

By virtue of the authority vested in me by the Constitution and laws of the United States, including section 5 of the United Nations Participation Act of 1945 (59 Stat. 620), as amended (22 U.S.C. 287c), and section 301 of Title 3 of the United States Code, and as President of the United States, and considering the measures which the Security Council of the United Nations by Security Council Resolution No. 253 adopted May 29, 1968, has decided upon pursuant to article 41 of the Charter of the United Nations, and which it has called upon all members of the United Nations, including the United States, to apply, it is hereby ordered:

Section 1. In addition to the prohibitions of section 1 of Executive Order No. 11322 of January 5, 1967, the following are prohibited effective immediately, notwithstanding any contracts entered into or licenses granted before the date of this Order:

(a) Importation into the United States of any commodities or products originating in Southern Rhodesia and exported therefrom after May 29, 1968.²

(b) Any activities by any person subject to the jurisdiction of the United States which promote or are calculated to promote the export from Southern Rhodesia after May 29, 1968, of any commodities or products originating in Southern Rhodesia, and any dealings by any such person in any such commodities or products, including in particular any transfer of funds to Southern Rhodesia for the purposes of such activities or dealings; *Provided*, however, That the prohibition against the dealing in commodities or products exported from Southern Rhodesia shall not apply to any such commodities or products which, prior to the date of this Order, had been lawfully imported into the United States.

(c) Carriage in vessels or aircraft of United States registration or under charter to any person subject to the jurisdiction of the United States of any commodities or products originating in Southern Rhodesia and exported therefrom after May 29, 1968.

(d) Sale or supply by any person subject to the jurisdiction of the United States, or any other activities by any such person which promote or are calculated to promote the sale or supply, to any person or body in Southern Rhodesia or to any person or body for the purposes of any business carried on in or operated from Southern Rho-

¹ See Executive Order 11796, July 30, 1974, 39 F.R. 27891, Aug. 2, 1974; and see, also, Executive Order 11810, Sept. 30, 1974, 39 F.R. 35567, Oct. 2, 1974.

² This prohibition affected by Public Law 92-156 (85 Stat. 427) which contained an amendment to the Strategic and Critical Materials Stockpiling Act (see page 330). However, the effect on this prohibition contained in Public Law 92-156 was removed by Public Law 95-12 which amended Sec. 5 of the United Nations Participation Act of 1945 (see page 317).

desia of any commodities or products. Such activities, including carriage in vessels or aircraft, may be authorized with respect to supplies intended strictly for medical purposes, educational equipment and material for use in schools and other educational institutions, publications, news material, and foodstuffs required by special humanitarian circumstances.

(e) Carriage in vessels or aircraft of United States registration or under charter to any person subject to the jurisdiction of the United States of any commodities or products consigned to any person or body in Southern Rhodesia, or to any person or body for the purposes of any business carried on in or operated from Southern Rhodesia.

(f) Transfer by any person subject to the jurisdiction of the United States directly or indirectly to any person or body in Southern Rhodesia of any funds or other financial or economic resources. Payments exclusively for pensions, for strictly medical, humanitarian or educational purposes, for the provision of news material or for foodstuffs required by special humanitarian circumstances may be authorized.

(g) Operation of any United States air carrier or aircraft owned or chartered by any person subject to the jurisdiction of the United States or of United States registration (i) to or from Southern Rhodesia or (ii) in coordination with any airline company constituted or aircraft registered in Southern Rhodesia.

Sec. 2. The functions and responsibilities for the enforcement of the foregoing prohibitions, and of those prohibitions of Executive Order No. 11322 of January 5, 1967 specified below, are delegated as follows:

(a) To the Secretary of Commerce, the function and responsibility of enforcement relating to—

(i) the exportation from the United States of commodities and products other than those articles referred to in section 2(a) of Executive Order No. 11322 of January 5, 1967; and

(ii) the carriage in vessels of any commodities or products the carriage of which is prohibited by section 1 of this Order or by section 1 of Executive Order No. 11322 of January 5, 1967.

(b) To the Secretary of Transportation, the function and responsibility of enforcement relating to the operation of air carriers and aircraft and the carriage in aircraft of any commodities or products the carriage of which is prohibited by section 1 of this Order or by section 1 of Executive Order No. 11322 of January 5, 1967.

(c) To the Secretary of the Treasury, the function and responsibility of enforcement to the extent not previously delegated in section 2 of Executive Order No. 11322 of January 5, 1967, and not delegated under subsections (a) and (b) of this section.

Sec. 3. The Secretary of the Treasury, the Secretary of Commerce, and the Secretary of Transportation shall exercise any authority which such officer may have apart from the United Nations Participation Act of 1945 or this Order so as to give full effect to this Order and Security Council Resolution No. 253.

Sec. 4. (a) In carrying out their respective functions and responsibilities under this Order, the Secretary of the Treasury, the Secretary of Commerce, and the Secretary of Transportation shall consult with the Secretary of State. Each such Secretary shall consult, as appropriate, with other government agencies and private persons.

(b) Each such Secretary shall issue such regulations, licenses or other authorizations as he considers necessary to carry out the purposes of this Order and Security Council Resolution No. 253.

(c) ³ The Secretary of the Treasury may exempt from the provisions of this Order, and Executive Order No. 11322, as amended, any shipment of chromium in any form which is in transit to the United States on March 18, 1977.

Sec. 5. (a) The term "United States," as used in this Order in a geographical sense, means all territory subject to the jurisdiction of the United States.

(b) The term "person" means an individual, partnership, association or other unincorporated body of individuals, or corporation.

Sec. 6. Executive Order No. 11322 of January 5, 1967, implementing United Nations Security Council Resolution No. 232 of December 16, 1966, shall continue in effect as modified by sections 2, 3, and 4 of this Order.

³ Subsection (c) was added by Executive Order 11978, March 18, 1977, 42 F.R. 15403.

c. Armed Forces Appropriation Authorization, 1972

Partial text of Public Law 92-156 [H.R. 8687], 85 Stat. 423, approved
November 17, 1971

AN ACT To authorize appropriations during the fiscal year 1972 for procurement of aircraft, missiles, naval vessels, tracked combat vehicles, torpedoes, and other weapons, and research, development, test, and evaluation for the Armed Forces, and to authorize real estate acquisition and construction at certain installations in connection with the Safeguard anti-ballistic missile system, and to prescribe the authorized personnel strength of the Selected Reserve of each Reserve component of the Armed Forces, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the
United States of America in Congress assembled,*

* * * * *

Sec. 503. The Strategic and Critical Materials Stock Piling Act (60 Stat. 596; 50 U.S.C. 98-98h) is amended (1) by redesignating section 10 as section 11, and (2) by inserting after section 9 a new section 10 as follows:

"SEC. 10. Notwithstanding any other provision of law, on and after January 1, 1972, the President may not prohibit or regulate the importation into the United States of any material determined to be strategic and critical pursuant to the provisions of this Act, if such material is the product of any foreign country or area not listed as a Communist-dominated country or area in general headnote 3(d) of the Tariff Schedules of the United States (19 U.S.C. 1202), for so long as the importation into the United States of material of that kind which is the product of such Communist-dominated countries or areas is not prohibited by any provision of law."

5. United Nations Peacekeeping Forces in the Middle East

Public Law 94-37 [S. 818], 89 Stat. 216, approved June 19, 1975

AN ACT To authorize United States payments to the United Nations for expenses of the United Nations peacekeeping forces in the Middle East, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That there is hereby authorized to be appropriated to the Department of State such sums as may be necessary from time to time for payment by the United States of its share of the expenses of the United Nations peacekeeping forces in the Middle East, as apportioned by the United Nations in accordance with article 17 of the United Nations Charter, notwithstanding the limitation on contributions to international organizations contained in Public Law 92-544 (86 Stat. 1109, 1110).¹

¹ For text, see p. 324.

6. Response to United Nations Resolution on Zionism

House Resolution 855, 94th Congress, agreed to November 11, 1975¹

Whereas the United States, as a founder of the United Nations Organization has a fundamental interest in promoting the purposes and principles for which that organization was created; and

Whereas in Article I of the Charter of the United Nations the stated purpose of the United Nations include: "To achieve international cooperation in solving international problems of an economic, social, cultural, or humanitarian character, and in promoting and encouraging respect for human rights and for fundamental freedoms for all without distinction as to race, sex, language or religion;" and

Whereas the General Assembly of the United Nations decided to launch on December 10, 1973, a Decade of Action to Combat Racism and Racial Discrimination and a program of action which the United States supported and in which it desires to participate; and

Whereas the United Nations General Assembly on November 10, 1975, adopted a resolution which describes Zionism as a form of racism thereby identifying it as a target of the Decade for Action to Combat Racism and Discrimination; and

Whereas the extension of the program of the Decade to include a campaign against Zionism brings the United Nations to a point of encouraging anti-Semitism, one of the oldest and most virulent forms of racism known to human history: Now, therefore, be it

Resolved, That the House of Representatives sharply condemns the resolution adopted by the General Assembly on November 10, 1975, in that said resolution encourages anti-Semitism by wrongly associating and equating Zionism with racism and racial discrimination, thereby contradicting a fundamental purpose of the United Nations Charter; and be it

Resolved, That the House strongly opposes any form of participation by the United States Government in the Decade for Action to Combat Racism and Racial Discrimination so long as that Decade and program remain distorted and compromised by the aforementioned resolution naming Zionism as one of the targets of that struggle; and be it

Resolved, That the House calls for an energetic effort by all those concerned with the adherence of the United Nations to the purposes stated in its Charter to obtain reconsideration of the aforementioned resolution with a view to removing the subject of Zionism, which is a national but in no way a racist philosophy, from the context of any programs and discussions focusing on racism or racial discrimination.

¹Two similar resolutions were passed by the Senate in the 94th Congress: Senate Resolution 288, agreed to October 28, 1975, and Senate Concurrent Resolution 73, agreed to November 12, 1975.

7. United Nations Environment Program Participation Act of 1973

Public Law 93-188 [H.R. 6788], 87 Stat. 713, approved December 15, 1973

AN ACT To provide for participation by the United States in the United Nations environment program.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "United Nations Environment Program Participation Act of 1973".

SEC. 2. It is the policy of the United States to participate in coordinated international efforts to solve environmental problems of global and international concern, and in order to assist the implementation of this policy, to contribute funds to the United Nations Environmental Fund for the support of international measures to protect and improve the environment.

SEC. 3. There is authorized to be appropriated \$40,000,000 for contributions to the United Nations Environment Fund, which amount is authorized to remain available until expended, and which may be used upon such terms and conditions as the President may specify: *Provided*, That not more than \$10,000,000 may be appropriated for use in fiscal year 1974.¹

¹ The Foreign Assistance Appropriations Act, 1977 provided \$10,000,000 for necessary expenses to carry out the provisions of section 2.

8. Privileges and Immunities

a. The International Organizations Immunities Act, as amended

Partial text of Public Law 79-291 [H.R. 4489], 59 Stat. 669, approved December 29, 1945,¹ as amended by Public Law 89-353 [H.R. 8210], 80 Stat. 5, approved February 2, 1966; and by Public Law 93-161 [H.R. 8219], 87 Stat. 635, approved November 27, 1973

AN ACT To extend certain privileges, exemptions, and immunities to international organizations and to the officers and employees thereof, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I

Section 1.² For the purposes of this title, the term "international organization" means a public international organization in which the United States participates pursuant to any treaty or under the authority of any Act of Congress authorizing such participation or making an appropriation for such participation, and which shall have been designated by the President through appropriate Executive order as being entitled to enjoy the privileges, exemptions, and immunities herein provided. The President shall be authorized, in the light of the functions performed by any such international organization, by appropriate Executive order to withhold or withdraw from any such organization or its officers or employees any of the privileges, exemptions, and immunities provided for in this title (including the amendments made by this title) or to condition or limit the enjoyment by any such organization or its officers or employees of any such privilege, exemption, or immunity. The President shall be authorized, if in his judgment such action should be justified by reason of the abuse by an international organization or its officers and employees of the privileges, exemptions, and immunities herein provided or for any other reason, at any time revoke the designation of any international organization under this section, whereupon the international organization in question shall cease to be classed as an international organization for the purposes of this title.³

¹ Title II is unrelated to the United Nations and has been omitted.

² 22 U.S.C. 288.

³ The following international organizations are currently designated by the President as public international organizations entitled to enjoy the privileges, exemptions and immunities of the International Organizations Immunities Act:

Sec. 2.⁴ International organizations shall enjoy the status, immunities, exemptions, and privileges set forth in this section, as follows:

(a) International organizations shall, to the extent consistent with the instrument creating them, possess the capacity—

(i) to contract;

(ii) to acquire and dispose of real and personal property;

(iii) to institute legal proceedings.

(b) International organizations, their property and their assets, wherever located, and by whomsoever held, shall enjoy the same immunity from suit and every form of judicial process as is enjoyed by foreign governments, except to the extent that such organizations

Executive Order No.	Date	Organization
9698	Feb. 19, 1946	The Food and Agriculture Organization. The International Labor Organization. The United Nations.
9751	July 11, 1946	Inter-American Institute of Agricultural Sciences. Inter-American Statistical Institute. International Bank for Reconstruction and Development. International Monetary Fund.
9823	Jan. 24, 1947	International Wheat Advisory Committee. (International Wheat Council.)
9863	May 31, 1947	United Nations Educational, Scientific, and Cultural Organization. International Civil Aviation Organization. International Telecommunication Union.
9911	Dec. 19, 1947	International Cotton Advisory Committee.
9972	June 25, 1948	International Joint Commission, United States and Canada.
10025	Dec. 30, 1948	World Health Organization.
10086	Nov. 25, 1949	South Pacific Commission.
10133	June 27, 1950	Organization for European Economic Cooperation.
10228	Mar. 26, 1951	Inter-American Defense Board.
10335	Mar. 28, 1952	Provisional Intergovernmental Committee for the Movement of Migrants from Europe (now the Intergovernmental Committee for European Migration).
10533	June 3, 1954	Organization of American States (includes the Pan American Union, previously designated Feb. 19, 1946, by Executive Order No. 9698).
10676	Sept. 1, 1956	World Meteorological Organization.
10680	Oct. 2, 1956	International Finance Corporation.
10727	Aug. 31, 1957	International Atomic Energy Agency (includes the Preparatory Commission of the International Atomic Energy Agency). Universal Postal Union.
10769	May 29, 1958	International Hydrographic Bureau.
10795	Dec. 13, 1958	Intergovernmental Maritime Consultative Organization.
10864	Feb. 18, 1960	Pan American Health Organization (includes the Pan American Sanitary Bureau, previously designated July 11, 1946, by Executive Order No. 9751).
10873	Apr. 8, 1960	Inter-American Development Bank.
10983	Dec. 30, 1961	Caribbean Organization.
11059	Oct. 23, 1962	Inter-American Tropical Tuna Commission. Great Lakes Fishery Commission. International Pacific Halibut Commission.
11225	May 22, 1965	International Coffee Organization.
11227	June 2, 1965	Interim Communications Satellite Committee.
11277	Apr. 30, 1966	International Telecommunications Satellite Consortium.
11283	May 27, 1966	International Cotton Institute.
11334	Mar. 7, 1967	Asian Development Bank.
11363	July 20, 1967	International Secretariat for Volunteer Service.
11372	Sept. 18, 1967	Lake Ontario Claims Tribunal (status revoked by Executive Order 11439, Dec. 7, 1968).
11484	Sept. 29, 1969	United International Bureaux for the Protection of Intellectual Property (BIRPI).
11596	June 5, 1971	Customs Cooperation Council.
11718	May 14, 1973	International Telecommunications Satellite Organization.
11760	Jan. 17, 1974	European Space Research Organization (ESRO) (superseding Executive Orders 11318 and 11351).
11767	Feb. 19, 1974	Organization of African Unity.
11866	June 20, 1975	World Intellectual Property Organization.
11966	Jan. 19, 1977	International Development Association. International Centre for Settlement of Investment Disputes. International Telecommunications Satellite Organization.
11977	Mar. 14, 1977	The African Development fund. The International Fertilizer Development Center.

⁴ 22 U.S.C. 288a.

may expressly waive their immunity for the purpose of any proceedings or by the terms of any contract.

(c) Property and assets of international organizations, wherever located and by whomsoever held, shall be immune from search, unless such immunity be expressly waived, and from confiscation. The archives of international organizations shall be inviolable.

(d) Insofar as concerns customs duties and internal-revenue taxes imposed upon or by reason of importation, and the procedures in connection therewith; the registration of foreign agents; and the treatment of official communications, the privileges, exemptions, and immunities to which international organizations shall be entitled shall be those accorded under similar circumstances to foreign governments.

Sec. 3.⁵ Pursuant to regulations prescribed by the Commissioner of Customs with the approval of the Secretary of the Treasury, the baggage and effects of alien officers and employees of international organizations, or of aliens designated by foreign governments to serve as their representatives in or to such organizations, or of the families, suites, and servants of such officers, employees, or representatives shall be admitted (when imported in connection with the arrival of the owner) free of customs duties and free of internal-revenue taxes imposed upon or by reason of importation.

Sec. 4.⁶ The Internal Revenue Code is hereby amended as follows:

(a)⁷ Effective with respect to taxable years beginning after December 31, 1943, section 116(c), relating to the exclusion from gross income of income of foreign governments, is amended to read as follows:

“(c) **INCOME OF FOREIGN GOVERNMENTS AND OF INTERNATIONAL ORGANIZATIONS.**—The income of foreign governments or international organizations received from investments in the United States in stocks, bonds, or other domestic securities, owned by such foreign governments or by international organizations, or from interest on deposits in banks in the United States of moneys belonging to such foreign governments or international organizations, or from any other source within the United States, shall not be included in gross income and shall be exempt from taxation under this subtitle.”

(b)⁸ Effective with respect to taxable years beginning after December 31, 1943, section 116(h)(1), relating to the exclusion from gross income of amounts paid employees of foreign governments, is amended to read as follows:

“(1) **RULE FOR EXCLUSION.**—Wages, fees, or salary of any employee of a foreign government or of an international organization or of the Commonwealth of the Philippines (including a consular or other officer, or a nondiplomatic representative), received as compensation for official services to such government, international organization, or such Commonwealth—

“(A) If such employee is not a citizen of the United States, or is a citizen of the Commonwealth of the Philippines (whether or not a citizen of the United States); and

“(B) If, in the case of an employee of a foreign government or of the Commonwealth of the Philippines, the services are of a

⁵ 22 U.S.C. 288b.

⁶ The provisions of sec. 4 are contained in title 26 of the United States Code, as noted below.

⁷ 26 U.S.C. 892.

⁸ 26 U.S.C. 893(a).

character similar to those performed by employees of the Government of the United States in foreign countries or in the Commonwealth of the Philippines, as the case may be; and

“(C) If, in the case of an employee of a foreign government or the Commonwealth of the Philippines, the foreign government or the Commonwealth grants an equivalent exemption to employees of the Government of the United States performing similar services in such foreign country or such Commonwealth, as the case may be.”

(c) Effective January 1, 1946, section 1426(b), defining the term “employment” for the purposes of the Federal Insurance Contributions Act, is amended (1) by striking out the word “or” at the end of paragraph (14), (2) by striking out the period at the end of paragraph (15) and inserting in lieu thereof a semicolon and the word “or”, and (3) by inserting at the end of the subsection the following new paragraph:

“(16)⁹ Service performed in the employ of an international organization.”

(d) Effective January 1, 1946, section 1607(c), defining the term “employment” for the purposes of the Federal Unemployment Tax Act, is amended (1) by striking out the word “or” at the end of paragraph (14), (2) by striking out the period at the end of paragraph (15) and inserting in lieu thereof a semicolon and the word “or”, and (3) by inserting at the end of the subsection the following new paragraph:

“(16)¹⁰ Service performed in the employ of an international organization.”

(e)¹¹ Section 1621(a)(5), relating to the definition of “wages” for the purpose of collection of income tax at the source, is amended by inserting after the words “foreign government” the words “or an international organization”.

(f)¹² Section 3466(a), relating to exemption from communications taxes is amended by inserting immediately after the words “the District of Columbia” a comma and the words “or an international organization”.

(g)¹³ Section 3469(f)(1), relating to exemption from the tax on transportation of persons, is amended by inserting immediately after the words “the District of Columbia” a comma and the words “or an international organization”.

(h)¹⁴ Section 3475(b)(1), relating to exemption from the tax on transportation of property, is amended by inserting immediately after the words “the District of Columbia” a comma and the words “or an international organization”.

(i) Section 3797(a), relating to definitions, is amended by adding at the end thereof a new paragraph as follows:

“(18)¹⁵ INTERNATIONAL ORGANIZATION.—The term ‘international organization’ means a public international organization entitled

⁹ 26 U.S.C. 3121(b)(15).

¹⁰ 26 U.S.C. 3306(c)(16).

¹¹ 26 U.S.C. 3401(a)(5).

¹² 26 U.S.C. 4253(c).

¹³ 26 U.S.C. 4263(b).

¹⁴ 26 U.S.C. 4272(d), relating to exemption from tax on transportation property, repealed with 26 U.S.C. 4271–4273 by Public Law 85–475, sec. 4(a), June 30, 1958, 72 Stat. 260.

¹⁵ 26 U.S.C. 7701(a)(18).

to enjoy privileges, exemptions, and immunities as an international organization under the International Organizations Immunities Act."

Sec. 5. (a) ¹⁶ Effective January 1, 1946, section 209(b) of the Social Security Act, defining the term "employment" for the purposes of title II of the Act, is amended (1) by striking out the word "or" at the end of paragraph (14), (2) by striking out the period at the end of paragraph (15) and inserting in lieu thereof a semicolon and the word "or", and (3) by inserting at the end of the subsection the following new paragraph:

"(16) Service performed in the employ of an international organization entitled to enjoy privileges, exemptions, and immunities as an international organization under the International Organizations Immunities Act."

(b) ¹⁷ No tax shall be collected under title VIII or IX of the Social Security Act or under the Federal Insurance Contributions Act or the Federal Unemployment Tax Act, with respect to services rendered prior to January 1, 1946, which are described in paragraph (16) of sections 1426(b) and 1607(c) of the Internal Revenue Code, as amended, and any such tax heretofore collected (included penalty and interest with respect thereto, if any) shall be refunded in accordance with the provisions of law applicable in the case of erroneous or illegal collection of the tax. No interest shall be allowed or paid on the amount of any such refund. No payment shall be made under title II of the Social Security Act with respect to services rendered prior to January 1, 1946, which are described in paragraph (16) of section 209(b) of such Act, as amended.

Sec. 6. ¹⁸ International organizations shall be exempt from all property taxes imposed by, or under the authority of, any Act of Congress, including such Acts as are applicable solely to the District of Columbia or the Territories.

Sec. 7. (a) ¹⁹ Persons designated by foreign governments to serve as their representatives in or to international organizations and the officers and employees of such organizations, and members of the immediate families of such representatives, officers, and employees residing with them, other than nationals of the United States, shall, insofar as concerns laws regulating entry into and departure from the United States, alien registration and fingerprinting, and the registration of foreign agents, be entitled to the same privileges, exemptions, and immunities as are accorded under similar circumstances to officers and employees, respectively, of foreign governments, and members of their families.

(b) ²⁰ Representatives of foreign governments in or to international organizations and officers and employees of such organizations shall be immune from suit and legal process relating to acts performed by them in their official capacity and falling within their functions as such representatives, officers, or employees except insofar as such immunity may be waived by the foreign government or international organization concerned.

¹⁶ 42 U.S.C. 410(a)(15).

¹⁷ 26 U.S.C. 3101 Historical Note; 42 U.S.C. 401 Historical Note.

¹⁸ 22 U.S.C. 288c.

¹⁹ 22 U.S.C. 288d(a).

²⁰ 22 U.S.C. 288d(b).

(c)²¹ Section 3 of the Immigration Act approved March 26, 1924, as amended (U.S.C., title 8, sec. 203), is hereby amended by striking out the period at the end thereof and inserting in lieu thereof a comma and the following: "and (7) a representative of a foreign government in or to an international organization entitled to enjoy privileges, exemptions, and immunities as an international organization under the International Organizations Immunities Act, or an alien officer or employee of such an international organization, and the family, attendants, servants, and employees of such a representative, officer, or employee".

(d)²² Section 15 of the Immigration Act approved May 26, 1924, as amended (U.S.C., title 8, sec. 215), is hereby amended to read as follows:

"Sec. 3 of the Immigration Act of May 26, 1924 (8 U.S.C. 203) was repealed and replaced by sec. 101(a)(15) of the Immigration and Nationality Act of June 27, 1952. Public Law 82-414, 66 Stat. 167, 8 U.S.C. 1101(a)(15). Sec. 7(c) of the International Organizations Immunities Act, set forth in the text above, is now covered by sec. 101(a)(15)(G) of the Immigration and Nationality Act of June 27, 1952 (8 U.S.C. 1101(a)(15)(G)), which provides:

"(G)(i) a designated principal resident representative of a foreign government recognized de jure by the United States, which foreign government is a member of an international organization entitled to enjoy privileges, exemptions, and immunities as an international organization under the International Organizations Immunity Act (55 Stat. 669), accredited resident members of the staff of such representatives, and members of his or their immediate family;

"(ii) other accredited representatives of such a foreign government to such international organizations, and the members of their immediate families;

"(iii) an alien able to qualify under (i) or (ii) above except for the fact that the government of which such alien is an accredited representative is not recognized de jure by the United States, or that the government of which he is an accredited representative is not a member of such international organization, and the members of his immediate family;

"(iv) officers, or employees of such international organizations, and the members of their immediate families;

"(v) attendants, servants, and personal employees of any such representative, officer, or employee, and the members of the immediate families of such attendants, servants, and personal employees;"

Sec. 101(a)(15) of the Immigration and Nationality Act of June 27, 1952 (8 U.S.C. 1101(a)(15)) establishes nine categories of "nonimmigrant" aliens (aliens admitted to the United States on a temporary basis, not for permanent residence here, and therefore not subject to quota restrictions). These are: Class A. Foreign government officials; Class B. Temporary visitors; Class C. Transit aliens (including aliens entitled to pass in transit to and from the United Nations headquarters in New York City); Class D. Crewmen; Class E. treaty traders and treaty investors; Class F. Students; Class G. International organizations personnel; Class H. Temporary workers; Class I. Foreign correspondents. A detailed account of the Immigration and Nationality Act of June 27, 1952 appears in a special article in Title 8 of the United States Code Annotated, prepared by Walter M. Besterman, Legislative Assistant, Committee on the Judiciary, House of Representatives, United States.

"Sec. 15 of the Immigration Act of May 26, 1924 (8 U.S.C. 215) has been repealed and replaced by secs. 102, 214 and 241 of the Immigration and Nationality Act of June 27, 1952 (8 U.S.C. 1102, 1184, 1251(e)). Sec. 7(d) of the International Organizations Immunities Act, set forth in the text above, is now covered by sec. 102 of the Immigration and Nationality Act of June 27, 1952 (8 U.S.C. 1102), which states:

"Sec. 102. Except as otherwise provided in this Act, for so long as they continue in the nonimmigrant classes enumerated in this section, the provisions of this Act relating to ineligibility to receive visas and the exclusion or deportation of aliens shall not be construed to apply to nonimmigrants—

"(1) within the class described in paragraph (15)(A)(i) of section 101(a), except those provisions relating to reasonable requirements of passports and visas as a means of identification and documentation necessary to establish their qualifications under such paragraph (15)(A)(i), and, under such rules and regulations as the President may deem to be necessary, the provisions of paragraph (27) of section 212(a);

"(2) within the class described in paragraph (15)(G)(i) of section 101(a), except those provisions relating to reasonable requirements of passports and visas as a means of identification and documentation necessary to establish their qualifications under such paragraph (15)(G)(i), and the provisions of paragraph (27) of section 212(a); and

"(3) within the classes described in paragraphs (15)(A)(ii), (15)(G)(ii), (15)(G)(iii), or (15)(G)(iv) of section 101(a), except those provisions relating to reasonable requirements of passports and visas as a means of identification and documentation necessary to establish their qualifications under such paragraphs, and the provisions of paragraphs (27) and (29) of section 212(a)."

Sec. 212 of the Immigration and Nationality Act of June 27, 1952 (8 U.S.C. 1182), sets forth the various classes of aliens to be excluded from admission to the United States. Paragraph (29) of sec. 212(a) (8 U.S.C. 1182(a)) provides:

"(27) Aliens who the consular officer or the Attorney General knows or has reason to believe seek to enter the United States solely, principally, or incidentally to engage in activities which would be prejudicial to the public interest, or endanger the welfare, safety, or security of the United States;"

(Continued)

"SEC. 15. The admission to the United States of an alien excepted from the class of immigrants by clause (1), (2), (3), (4), (5), (6), or (7) of section 3, or declared to be a nonquota immigrant by subdivision (e) of section 4, shall be for such time and under such conditions as may be by regulations prescribed (including, when deemed necessary for the classes mentioned in clause (2), (3), (4), or (6) of section 3 and subdivision (e) of section 4, the giving of bond with sufficient surety, in such sum and containing such conditions as may be by regulations prescribed to insure that, at the expiration of such time or upon failure to maintain the status under which admitted, he will depart from the United States: *Provided*. That no alien who has been, or who may hereafter be, admitted into the United States under clause (1) or (7) of section 3, as an official of a foreign government, or as a member of the family of such official, or as a representative

(Continued)

Paragraph (29) of sec. 212(a) (8 U.S.C. 1182(a)(29)) provides:

"(29) Aliens with respect to whom the consular officer or the Attorney General knows or has reasonable ground to believe probably would, after entry, (A) engage in activities which would be prohibited by the laws of the United States relating to espionage, sabotage, public disorder, or in other activity subversive to the national security, (B) engage in any activity a purpose of which is the opposition to, or the control or overthrow of, the Government of the United States, by force, violence, or other unconstitutional means, or (C) join, affiliate with, or participate in the activities of any organization which is registered or required to be registered under section 7 of the Subversive Activities Control Act of 1950."

It will be noted that sec. 102 (8 U.S.C. 1102) covers class (15)(G) (i), (ii), (iii) and (iv) cases of international organizations personnel, but does not cover (15)(G)(v) cases (attendants, servants, and personal employees of such personnel, and members of the immediate families of such attendants, servants, and personal employees). Sec. 212 (8 U.S.C. 1182) setting forth various grounds of exclusion of aliens such as mental, physical, or moral defects, therefore applies to this class of personnel. Sec. 212(d)(2) (8 U.S.C. 1182(d)(2)) contains this exception:

"(2) The provisions of paragraph (28) of subsection (a) of this section shall not be applicable to any alien who is seeking to enter the United States temporarily as a non-immigrant under paragraph (15)(A)(iii) or (15)(G)(v) of section 101(a)."

Sec. 212(a)(28) (8 U.S.C. 1182(a)(28)) lists various classes of aliens who are excluded because of subversive activities and associations. These classes include: anarchists; opponents of all organized governments; members of the Communist Party of the United States; advocates of world communism; advocates of the overthrow by force, violence, or other unconstitutional means of the Government of the United States or of all forms of law; etc.

In this connection, note should be made of sec. 212(d) (3) and (6) (8 U.S.C. 1182(d)(3) and (6)). Paragraph (3) provides:

"(3) Except as provided in this subsection, an alien (A) who is applying for a non-immigrant visa and is known or believed by the consular officer to be ineligible for such visa under one or more of the paragraphs enumerated in subsection (a) (other than paragraphs (27) and (29)), may, after approval by the Attorney General of a recommendation by the Secretary of State or by the consular officer that the alien be admitted temporarily despite his inadmissibility, be granted such a visa and may be admitted into the United States temporarily as a nonimmigrant in the discretion of the Attorney General, or (B) who is inadmissible under one or more of the paragraphs enumerated in subsection (a) (other than paragraphs (27) and (29)), but who is in possession of appropriate documents or is granted a waiver thereof and is seeking admission, may be admitted into the United States temporarily as a nonimmigrant in the discretion of the Attorney General."

Paragraph (6) provides:

"(6) The Attorney General shall prescribe conditions, including exaction of such bonds as may be necessary, to control and regulate the admission and return of excludable aliens applying for temporary admission under this subsection. The Attorney General shall make a detailed report to the Congress in any case in which he exercises his authority under paragraph (3) of this subsection on behalf of any alien excludable under paragraphs (9), (10), and (28) of subsection (a)."

Attention is also called to sec. 214 (a) and (b) (8 U.S.C. 1184 (a) and (b)), which provide:

"SEC. 214. (a) The admission to the United States of any alien as a nonimmigrant shall be for such time and under such conditions as the Attorney General may by regulations prescribe, including when he deems necessary the giving of a bond with sufficient surety in such sum and containing such conditions as the Attorney General shall prescribe, to insure that at the expiration of such time or upon failure to maintain the status under which he was admitted, or to maintain any status subsequently acquired under section 248, such alien will depart from the United States.

"(b) Every alien shall be presumed to be an immigrant until he establishes to the satisfaction of the consular officer, at the time of application for a visa, and the immigration officers, at the time of application for admission, that he is entitled to a non-immigrant status under section 101(a)(15). An alien who is an officer or employee of any foreign government or of any international organization entitled to enjoy privileges, exemptions, and immunities under the International Organizations Immunities Act, or an alien who is the attendant, servant, employee, or member of the immediate family of any such alien shall not be entitled to apply for or receive an immigrant visa, or to enter the United States as an immigrant unless he executes a written waiver in the same form and substance as is prescribed by section 247(h)."

of a foreign government in or to an international organization or an officer or employee of an international organization, or as a member of the family of such representative, officer, or employee, shall be required to depart from the United States without the approval of the Secretary of State."

Sec. 8.²³ (a) No person shall be entitled to the benefits of this title unless he (1) shall have been duly notified to and accepted by the Secretary of State as a representative, officer, or employee; or (2) shall have been designated by the Secretary of State, prior to formal notification and acceptance as a prospective representative, officer, or employee; or (3) is a member of the family or suite or servant, of one of the foregoing accepted or designated representatives, officers, or employees.

(b) Should the Secretary of State determine that the continued presence in the United States of any person entitled to the benefits of this title is not desirable, he shall so inform the foreign government or international organization concerned, as the case may be, and after such person shall have had a reasonable length of time, to be determined by the Secretary of State, to depart from the United States, he shall cease to be entitled to such benefits.

(c) No person shall, by reason of the provisions of this title, be considered as receiving diplomatic status or as receiving any of the privileges incident thereto other than such as are specifically set forth herein.

Sec. 9.²⁴ The privileges, exemptions, and immunities of international organizations and of their officers and employees, and members of their families, suites, and servants, provided for in this title, shall be granted notwithstanding the fact that the similar privileges, exemptions, and immunities granted to a foreign government, its officers, or employees, may be conditioned upon the existence of reciprocity by that foreign government: *Provided*, That nothing contained in this title shall be construed as precluding the Secretary of State from withdrawing the privileges, exemptions, and immunities herein provided from persons who are nationals of any foreign country on the ground that such country is failing to accord corresponding privileges, exemptions, and immunities to citizens of the United States.

Sec. 10. This title may be cited as the "International Organizations Immunities Act."

Sec. 11.²⁵ The provisions of this title may be extended to the European Space Research Organization in the same manner, to the same extent, and subject to the same conditions, as they may be extended to a public international organization in which the United States participates pursuant to any treaty or under the authority of any Act of Congress authorizing such participation or making an appropriation for such participation.

Sec. 12.²⁶ The provisions of this title may be extended to the Organization of African Unity in the same manner, to the same extent, and subject to the same conditions, as they may be extended to a public international organization in which the United States participates pursuant to any treaty or under the authority of any Act of Congress authorizing such participation or making an appropriation for such participation.

²³ 22 U.S.C. 288e.

²⁴ 22 U.S.C. 288f.

²⁵ Added by Public Law 89-355, (80 Stat. 5; 22 U.S.C. 288f-1).

²⁶ Added by Public Law 93-161 (87 Stat. 635).

b. Extending Certain Privileges to Representatives of Member States on the Council of the Organization of American States

Public Law 82-486 [S. 2042], 66 Stat. 516; 22 U.S.C. 288g, approved July 10, 1952, as amended by Public Law 93-149 [H.R. 5943], 87 Stat. 560, approved November 7, 1973

AN ACT To extend certain privileges to the representatives of member states and permanent observers to the Organization of American States.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, under such terms and conditions as he shall determine, the President is hereby authorized to extend, or to enter into an agreement extending, to the representatives of member states (other than the United States) to the Organization of American States and to permanent observers to the Organization of American States, and to members of the staffs of said representatives and permanent observers, the same privileges and immunities, subject to corresponding conditions and obligations, as are enjoyed by diplomatic envoys accredited to the United States.¹

¹ As amended and restated by Public Law 93-149. The text formerly read: "That, under such terms and conditions as he shall determine, the President is hereby authorized to extend, or to enter into an agreement extending, to the representatives of member states (other than the United States) on the Council of the Organization of American States, and to members of their staffs, the same privileges and immunities, subject to corresponding conditions and obligations, as are enjoyed by diplomatic envoys accredited to the United States."

c. Extending Diplomatic Privileges to the Mission of the Commission of the European Communities

Public Law 92-499 [S. 2700], 86 Stat. 815, approved October 18, 1972

AN ACT To extend diplomatic privileges and immunities to the Mission to the United States of America of the Commission of the European Communities and to members thereof.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, under such terms and conditions as he shall determine and consonant with the purposes of this Act, the President is authorized to extend, or to enter into an agreement extending, to the Mission to the United States of America of the Commission of the European Communities, and to members thereof, the same privileges and immunities subject to corresponding conditions and obligations as are enjoyed by diplomatic missions accredited to the United States and by members thereof.

d. Act for the Protection of Foreign Officials and Official Guests of the United States¹

Public Law 92-539 [H.R. 15883], 86 Stat. 1070, approved October 24, 1972

AN ACT To amend title 18, United States Code, to provide for expanded protection of foreign officials, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Act for the Protection of Foreign Officials and Official Guests of the United States".

STATEMENT OF FINDINGS AND DECLARATION OF POLICY

SEC. 2. The Congress recognizes that from the beginning of our history as a nation, the police power to investigate, prosecute, and punish common crimes such as murder, kidnaping, and assault has resided in the several States, and that such power should remain with the States.

The Congress finds, however, that harassment, intimidation, obstruction, coercion, and acts of violence committed against foreign officials or their family members in the United States or against official guests of the United States adversely affect the foreign relations of the United States.

Accordingly, this legislation is intended to afford the United States jurisdiction concurrent with that of the several States to proceed against those who by such acts interfere with its conduct of foreign affairs.

TITLE I—MURDER OR MANSLAUGHTER OF FOREIGN OFFICIALS AND OFFICIAL GUESTS

SEC. 101. Chapter 51 of title 18, United States Code, is amended by adding at the end thereof the following new sections:

"§ 1116.² Murder or manslaughter of foreign officials, official guests, or internationally protected persons

"(a) Whoever kills or attempts to kill a foreign official, official guest, or internationally protected person shall be punished as provided under sections 1111, 1112, and 1113 of this title, except that any such

¹ While this Act itself has never been amended, the various sections of chapter 51 of title 18, U.S.C., contained herein were substantially amended by the Act for the Prevention and Punishment of Crimes Against Internationally Protected Persons (Public Law 94-467; 90 Stat. 1997). These amendments have been incorporated in the text found in this Act. However, see also Sec. 878 of chapter 41 of title 18 U.S.C., which concerns threats and extortion against foreign officials, official guests, or internationally protected persons (page 351 of text).

² Sec. 1116, as added by this Act, was amended and restated by Sec. 2 of Public Law 94-467.

person who is found guilty of murder in the first degree shall be sentenced to imprisonment for life, and any such person who is found guilty of attempted murder shall be imprisoned for not more than twenty years.

“(b) For the purposes of this section:

“(1) ‘Family’ includes (a) a spouse, parent, brother or sister, child, or person to whom the foreign official or internationally protected person stands in loco parentis, or (b) any other person living in his household and related to the foreign official or internationally protected person by blood or marriage.

“(2) ‘Foreign government’ means the government of a foreign country, irrespective of recognition by the United States.

“(3) ‘Foreign official’ means—

“(A) a Chief of State or the political equivalent, President, Vice President, Prime Minister, Ambassador, Foreign Minister, or other officer of Cabinet rank or above of a foreign government or the chief executive officer of an international organization, or any person who has previously served in such capacity, and any member of his family, while in the United States; and

“(B) any person of a foreign nationality who is duly notified to the United States as an officer or employee of a foreign government or international organization, and who is in the United States on official business, and any member of his family whose presence in the United States is in connection with the presence of such officer or employee.

“(4) ‘Internationally protected person’ means—

“(A) a Chief of State or the political equivalent, head of government, or Foreign Minister whenever such person is in a country other than his own and any member of his family accompanying him; or

“(B) any other representative, officer, employee, or agent of the United States Government, a foreign government, or international organization who at the time and place concerned is entitled pursuant to international law to special protection against attack upon his person, freedom, or dignity, and any member of his family then forming part of his household.

“(5) ‘International organization’ means a public international organization designated as such pursuant to section 1 of the International Organizations Immunities Act (22 U.S.C. 288).

“(6) ‘Official guest’ means a citizen or national of a foreign country present in the United States as an official guest of the Government of the United States pursuant to designation as such by the Secretary of State.

“(c) If the victim of an offense under subsection (a) is an internationally protected person, the United States may exercise jurisdiction over the offense if the alleged offender is present within the United States, irrespective of the place where the offense was committed or the nationality of the victim or the alleged offender. As used in this subsection, the United States includes all areas under the jurisdiction of the United States including any of the places within the provisions

of sections 5 and 7 of this title and section 101(34) of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1301(34)).

"(d) In the course of enforcement of this section and any other sections prohibiting a conspiracy or attempt to violate this section, the Attorney General may request assistance from any Federal, State, or local agency, including the Army, Navy, and Air Force, any statute, rule, or regulation to the contrary notwithstanding."

"§ 1117. Conspiracy to murder

"If two or more persons conspire to violate section 1111, 1114, or 1116 of this title, and one or more of such persons do any overt act to effect the object of the conspiracy, each shall be punished by imprisonment for any term of years or for life."

SEC. 102. The analysis of chapter 51 of title 18, United States Code, is amended by adding at the end thereof the following new items:

"1116. Murder or manslaughter of foreign officials, official guests, or internationally protected persons."³

"1117. Conspiracy to murder."

TITLE II—KIDNAPING

SEC. 201. Section 1201 of title 18, United States Code, is amended to read as follows:

"§ 1201. Kidnaping

"(a) Whoever unlawfully seizes, confines, inveigles, decoys, kidnaps, abducts, or carries away and holds for ransom or reward or otherwise any person, except in the case of a minor by the parent thereof, when:

"(1) the person is willfully transported in interstate or foreign commerce;

"(2) any such act against the person is done within the special maritime and territorial jurisdiction of the United States;

"(3) any such act against the person is done within the special aircraft jurisdiction of the United States as defined in section 101 (32) of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1301(32)); or

"(4) the person is a foreign official, an internationally protected person, or an official guest as those terms are defined in section 1116(b) of this title,"; and

"(b) With respect to subsection (a)(1), above, the failure to release the victim within twenty-four hours after he shall have been unlawfully seized, confined, inveigled, decoyed, kidnaped, abducted, or carried away shall create a rebuttable presumption that such person has been transported in interstate or foreign commerce.

"(c) If two or more persons conspire to violate this section and one or more of such persons do any overt act to effect the object of the conspiracy, each shall be punished by imprisonment for any term of years or for life."

³ The words "internationally protected persons" were added to this analysis by Sec. 3 of Public Law 94-467.

⁴ Paragraph (4) was amended and restated by Sec. 4(a) of Public Law 94-467.

"(d)⁵ Whoever attempts to violate subsection (a) (4) shall be punished by imprisonment for not more than twenty years.

"(e)⁵ If the victim of an offense under subsection (a) is an internationally protected person, the United States may exercise jurisdiction over the offense if the alleged offender is present within the United States irrespective of the place where the offense was committed or the nationality of the victim or the alleged offender. As used in this subsection, the United States includes all areas under the jurisdiction of the United States including any of the places within the provisions of sections 5 and 7 of this title and section 101(34) of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1301(34)).

"(f)⁵ In the course of enforcement of subsection (a) (4) and any other sections prohibiting a conspiracy or attempt to violate subsection (a) (4), the Attorney General may request assistance from any Federal, State, or local agency, including the Army, Navy, and Air Force, any statute, rule, or regulation to the contrary notwithstanding."

SEC. 202. The analysis of chapter 55 of title 18, United States Code, is amended by deleting

"1201. Transportation.",

and substituting the following:

"1201. Kidnapping."

TITLE III—PROTECTION OF FOREIGN OFFICIALS AND OFFICIAL GUESTS

SEC. 301. Section 112 of title 18, United States Code, is amended to read as follows:

"§ 112.⁶ Protection of foreign officials, official guests, and internationally protected persons

"(a) Whoever assaults, strikes, wounds, imprisons, or offers violence to a foreign official, official guest, or internationally protected person or makes any other violent attack upon the person or liberty of such person, or, if likely to endanger his person or liberty, makes a violent attack upon his official premises, private accommodation, or means of transport or attempts to commit any of the foregoing shall be fined not more than \$5,000 or imprisoned not more than three years, or both. Whoever in the commission of any such act uses a deadly or dangerous weapon shall be fined not more than \$10,000 or imprisoned not more than ten years, or both.

"(b) Whoever willfully—

"(1) intimidates, coerces, threatens, or harasses a foreign official or an official guest or obstructs a foreign official in the performance of his duties;

"(2) attempts to intimidate, coerce, threaten, or harass a foreign official or an official guest or obstruct a foreign official in the performance of his duties; or

"(3) within the United States but outside the District of Columbia and within one hundred feet of any building or premises in

⁵ Subsections (d), (e), and (f) were added by Sec. 4(b) of Public Law 94-467.

⁶ Sec. 112 was amended and restated by Sec. 5 of Public Law 94-467.

whole or in part owned, used, or occupied for official business or for diplomatic, consular, or residential purposes by—

“(A) a foreign government, including such use as a mission to an international organization;

“(B) an international organization;

“(C) a foreign official; or

“(D) an official guest;

congregates with two or more other persons with intent to violate any other provision of this section;

shall be fined not more than \$500 or imprisoned not more than six months, or both.

“(c) For the purpose of this section ‘foreign government’, ‘foreign official’, ‘internationally protected person’, ‘international organization’, and ‘official guest’ shall have the same meanings as those provided in section 1116(b) of this title.

“(d) Nothing contained in this section shall be construed or applied so as to abridge the exercise of rights guaranteed under the first amendment to the Constitution of the United States.

“(e) If the victim of an offense under subsection (a) is an internationally protected person, the United States may exercise jurisdiction over the offense if the alleged offender is present within the United States, irrespective of the place where the offense was committed or the nationality of the victim or the alleged offender. As used in this subsection, the United States includes all areas under the jurisdiction of the United States including any of the places within the provisions of sections 5 and 7 of this title and section 101(34) of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1301(34)).

“(f) In the course of enforcement of subsection (a) and any other sections prohibiting a conspiracy or attempt to violate subsection (a), the Attorney General may request assistance from any Federal, State, or local agency, including the Army, Navy, and Air Force, any statute, rule, or regulation to the contrary, notwithstanding.”

SEC. 302. The analysis of chapter 7 of title 18, United States Code, is amended by deleting

“112. Assaulting certain foreign diplomats and other official personnel.”

and adding at the beginning thereof the following new item:

“112. Protection of foreign officials, official guests, and internationally protected persons.”⁷

TITLE IV—PROTECTION OF PROPERTY OF FOREIGN GOVERNMENTS AND INTERNATIONAL ORGANIZATIONS

SEC. 401. Chapter 45 of title 18, United States Code, is amended by adding at the end thereof the following new section:

“§ 970. Protection of property occupied by foreign governments

“(a) Whoever willfully injures, damages, or destroys, or attempts to injure, damage, or destroy, any property, real or personal, located within the United States and belonging to or utilized or occupied

⁷ Sec. 6 of Public Law 94-467 added the words “and internationally protected persons” to this analysis.

by any foreign government or international organization, by a foreign official or official guest, shall be fined not more than \$10,000, or imprisoned not more than five years, or both.

“(b)⁸ Whoever, willfully with intent to intimidate, coerce, threaten, or harass—

“(1) forcibly thrusts any part of himself or any object within or upon that portion of any building or premises located within the United States, which portion is used or occupied for official business or for diplomatic, consular, or residential purposes by—

“(A) a foreign government, including such use as a mission to an international organization;

“(B) an international organization;

“(C) a foreign official; or

“(D) an official guest; or

“(2) refuses to depart from such portion of such building or premises after a request—

“(A) by an employee of a foreign government or of an international organization, if such employee is authorized to make such request by the senior official of the unit of such government or organization which occupies such portion of such building or premises;

“(c)⁸ For the purpose of this section ‘foreign government’, ‘foreign official’, ‘international organization’, and ‘official guest’ shall have the same meanings as those provided in section 116(b) of this title.”

SEC. 402. The analysis of chapter 45 of title 18, United States Code, is amended by adding at the end thereof the following new item:

“970. Protection of property occupied by foreign governments.”

SEC. 3. Nothing contained in this Act shall be construed to indicate an intent on the part of Congress to occupy the field in which its provisions operate to the exclusion of the laws of any State, Commonwealth, territory, possession, or the District of Columbia on the same subject matter, nor to relieve any person of any obligation imposed by any law of any State, Commonwealth, territory, possession, or the District of Columbia.

⁸ Sec. 7 of Public Law 94-467 added a new subsection (b), amended and restated the old subsection (b), and redesignated it as subsection (c).

e. Executive Protective Service

Partial text of Public Law 80-771 [H.R. 6412], 62 Stat. 672, approved June 25, 1948; as amended by Public Law 87-481 [H.R. 11261], 76 Stat. 95, approved June 8, 1962, Public Law 91-217 [H.R. 14944], 84 Stat. 74, approved March 19, 1970; Public Law 93-552 [H.R. 16136], 88 Stat. 1764, approved December 27, 1974; and by Public Law 94-196 [H.R. 11184], 89 Stat. 1109, approved December 31, 1975¹

AN ACT To codify and enact into law Title 3 of the United States Code, entitled "The President".

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That Title 3 of the United States Code, entitled "The President", is codified and enacted into positive law and may be cited as "3 U.S.C., § —", as follows:

* * * * *

CHAPTER 3.—PROTECTION OF THE PRESIDENT; THE EXECUTIVE PROTECTIVE SERVICE

§ 202. Executive Protective Service; establishment, control, and supervision; privileges, powers, and duties

There is hereby created and established a permanent police force, to be known as the "Executive Protective Service". Subject to the supervision of the Secretary of the Treasury, the Executive Protective Service shall perform such duties as the Director, United States Secret Service, may prescribe in connection with the protection of the following: (1) the Executive Mansion and grounds in the District of Columbia; (2) any building in which Presidential offices are located; (3) the President and members of his immediate family; (4) foreign diplomatic missions located in the metropolitan area of the District of Columbia; (5) the temporary official residence of the Vice President and grounds in the District of Columbia; (6) the Vice President and members of his immediate¹ family; (7) foreign diplomatic missions located in metropolitan areas (other than the District of Columbia) in the United States where there are located twenty or more such missions headed by full-time officers, except that such protection shall be provided only (A) on the basis of extraordinary protective need, (B) upon request of the affected metropolitan area, and (C) when the extraordinary protective need arises in association with a visit to or occurs at a permanent mission to an international organization of which the United States is a member or an observer mission invited to participate in the work of such organization, provided that such protection may be extended at places of temporary domicile in connection with such a visit; and (8) foreign diplomatic missions located in such other areas in the United States, its territories and possessions, as the President, on a case-by-case basis, may direct. The members of such force shall possess privileges and powers similar to those of the members of the Metropolitan Police of the District of Columbia.

¹ 3 U.S.C. 202.

f. Act for the Prevention and Punishment of Crimes Against Internationally Protected Persons ¹

Partial text of Public Law 94-467 [H.R. 15552], 90 Stat. 1997, approved October 8, 1976

AN ACT To amend title 18, United States Code, to implement the "Convention To Prevent and Punish the Acts of Terrorism Taking the Form of Crimes Against Persons and Related Extortion That Are of International Significance" and the "Convention on the Prevention and Punishment of Crimes Against Internationally Protected Persons, Including Diplomatic Agents", and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Act for the Prevention and Punishment of Crimes Against Internationally Protected Persons".

* * * * *

SEC. 8. Chapter 41 of title 18, United States Code, is amended by adding a new section 878 as follows:

§ 878. Threats and extortion against foreign officials, official guests, or internationally protected persons

"(a) Whoever knowingly and willfully threatens to violate section 112, 1116, or 1201 by killing, kidnapping, or assaulting a foreign official, official guest, or internationally protected person shall be fined not more than \$5,000 or imprisoned not more than five years, or both, except that imprisonment for a threatened assault shall not exceed three years.

"(b) Whoever in connection with any violation of subsection (a) or actual violation of section 112, 1116, or 1201 makes any extortionate demand shall be fined not more than \$20,000 or imprisoned not more than twenty years, or both.

"(c) For the purpose of this section 'foreign official', 'internationally protected person', and 'official guest' shall have the same meanings as those provided in section 1116(a) of this title.

"(d) If the victim of an offense under subsection (a) is an internationally protected person, the United States may exercise jurisdiction over the offense if the alleged offender is present within the United States, irrespective of the place where the offense was committed or the nationality of the victim or the alleged offender. As used in this subsection, the United States includes all areas under the jurisdiction of the United States including any of the places within the provisions

¹ Except for sections 8 through 11, this Act amends portions of title 18, U.S.C., which were also amended by the Act for the Protection of Foreign Officials and Official Guests of the United States (Public Law 92-539). All amendments made by this Act to sections contained in Public Law 92-539 are incorporated in the text of the latter. See page 344 for complete text.

of sections 5 and 7 of this title and section 101 (34) of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1301 (34)).”.

SEC. 9. The analysis of chapter 41 of title 18, United States Code, is amended by inserting at the end thereof the following new item:

“878. Threat and extortion against foreign officials, official guests, and internationally protected persons.”.

SEC. 10. Nothing contained in this Act shall be construed to indicate an intent on the part of Congress to occupy the field in which its provisions operate to the exclusion of the laws of any State, Commonwealth, territory, possession, or the District of Columbia, on the same subject matter, nor to relieve any person of any obligation imposed by any law of any State, Commonwealth, territory, possession, or the District of Columbia, including the obligation of all persons having official law enforcement powers to take appropriate action, such as effecting arrests, for Federal as well as non-Federal violations.

SEC. 11. Section 11 of title 18, United States Code, is amended by inserting after the word “title” the words “except in sections 112, 878, 970, 1116, and 1201”.

**g. Diplomatic Privileges and Immunities for the Liaison Office
of the People's Republic of China**

Public Law 93-22 [S. 1315], 87 Stat. 24, approved April 20, 1973

AN ACT To extend diplomatic privileges and immunities to the Liaison Office of the People's Republic of China and to members thereof, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, under such terms and conditions as he shall determine and consonant with the purposes of this Act, the President is authorized to extend to the Liaison Office of the People's Republic of China in Washington and to the members thereof the same privileges and immunities subject to corresponding conditions and obligations as are enjoyed by diplomatic missions accredited to the United States and by members thereof.

**h. Executive Order 11771, March 18, 1974, 39 F.R. 10415, 3 CFR,
1974 Comp., p. 334**

**Extending Diplomatic Privileges and Immunities to the Liaison Office of the
People's Republic of China in Washington, D.C., and to Members Thereof**

By virtue of the authority vested in me by the act of April 20, 1973 (87 Stat. 24; Public Law 93-22), and as President of the United States, I extend to the Liaison Office of the People's Republic of China in Washington, D.C. and to its members who are duly notified to, and accepted by, the Secretary of State the same privileges and immunities, subject to corresponding conditions and obligations, as are enjoyed by the diplomatic missions accredited to the United States and by members of the staffs thereof. This Executive Order shall be effective as of April 20, 1973.

i. Foreign Sovereign Immunities Act of 1976

Public Law 94-583 [H.R. 11315], 90 Stat. 2891, approved October 21, 1976

AN ACT To define the jurisdiction of United States courts in suits against foreign states, the circumstances in which foreign states are immune from suit and in which execution may not be levied on their property, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Foreign Sovereign Immunities Act of 1976".

SEC. 2. (a) That chapter 85 of title 28, United States Code, is amended by inserting immediately before section 1331 the following new section:

"§ 1330. Actions against foreign states

"(a) The district courts shall have original jurisdiction without regard to amount in controversy of any nonjury civil action against a foreign state as defined in section 1603(a) of this title as to any claim for relief in personam with respect to which the foreign state is not entitled to immunity either under sections 1605-1607 of this title or under any applicable international agreement.

"(b) Personal jurisdiction over a foreign state shall exist as to every claim for relief over which the district courts have jurisdiction under subsection (a) where service has been made under section 1608 of this title.

"(c) For purposes of subsection (b), an appearance by a foreign state does not confer personal jurisdiction with respect to any claim for relief not arising out of any transaction or occurrence enumerated in sections 1605-1607 of this title."

(b) By inserting in the chapter analysis of that chapter before—

"1331. Federal question ; amount in controversy ; costs."

the following new item:

"1330. Action against foreign states."

SEC. 3. That section 1332 of title 28, United States Code, is amended by striking subsections (a) (2) and (3) and substituting in their place the following:

"(2) citizens of a State and citizens or subjects of a foreign state;

"(3) citizens of different States and in which citizens or subjects of a foreign state are additional parties; and

"(4) a foreign state, defined in section 1603(a) of this title, as plaintiff and citizens of a State or of different States."

SEC. 4. (a) That title 28, United States Code, is amended by inserting after chapter 95 the following new chapter:

“Chapter 97.—JURISDICTIONAL IMMUNITIES OF FOREIGN STATES

“Sec.

“1602. Findings and declaration of purpose.

“1603. Definitions.

“1604. Immunity of a foreign state from jurisdiction.

“1605. General exceptions to the jurisdictional immunity of a foreign state.

“1606. Extent of liability.

“1607. Counterclaims.

“1608. Service; time to answer default.

“1609. Immunity from attachment and execution of property of a foreign state.

“1610. Exceptions to the immunity from attachment or execution.

“1611. Certain types of property immune from execution.

“§ 1602. Findings and declaration of purpose

“The Congress finds that the determination by United States courts of the claims of foreign states to immunity from the jurisdiction of such courts would serve the interests of justice and would protect the rights of both foreign states and litigants in United States courts. Under international law, states are not immune from the jurisdiction of foreign courts insofar as their commercial activities are concerned, and their commercial property may be levied upon for the satisfaction of judgments rendered against them in connection with their commercial activities. Claims of foreign states to immunity should henceforth be decided by courts of the United States and of the States in conformity with the principles set forth in this chapter.

“§ 1603. Definitions

“For purposes of this chapter—

“(a) A ‘foreign state’, except as used in section 1608 of this title, includes a political subdivision of a foreign state or an agency or instrumentality of a foreign state as defined in subsection (b).

“(b) An ‘agency or instrumentality of a foreign state’ means any entity—

“(1) which is a separate legal person, corporate or otherwise, and

“(2) which is an organ of a foreign state or political subdivision thereof, or a majority of whose shares or other ownership interest is owned by a foreign state or political subdivision thereof, and

“(3) which is neither a citizen of a State of the United States as defined in section 1332 (c) and (d) of this title, nor created under the laws of any third country.

“(c) The ‘United States’ includes all territory and waters, continental or insular, subject to the jurisdiction of the United States.

“(d) A ‘commercial activity’ means either a regular course of commercial conduct or a particular commercial transaction or act. The commercial character of an activity shall be determined by reference to the nature of the course of conduct or particular transaction or act, rather than by reference to its purpose.

“(e) A ‘commercial activity carried on in the United States by a foreign state’ means commercial activity carried on by such state and having substantial contact with the United States.

“§ 1604. Immunity of a foreign state from jurisdiction

“Subject to existing international agreements to which the United States is a party at the time of enactment of this Act a foreign state shall be immune from the jurisdiction of the courts of the United States and of the States except as provided in sections 1605 to 1607 of this chapter.

“§ 1605. General exceptions to the jurisdictional immunity of a foreign state

“(a) A foreign state shall not be immune from the jurisdiction of courts of the United States or of the States in any case—

“(1) in which the foreign state has waived its immunity either explicitly or by implication, notwithstanding any withdrawal of the waiver which the foreign state may purport to effect except in accordance with the terms of the waiver;

“(2) in which the action is based upon a commercial activity carried on in the United States by the foreign state; or upon an act performed in the United States in connection with a commercial activity of the foreign state elsewhere; or upon an act outside the territory of the United States in connection with a commercial activity of the foreign state elsewhere and that act causes a direct effect in the United States;

“(3) in which rights in property taken in violation of international law are in issue and that property or any property exchanged for such property is present in the United States in connection with a commercial activity carried on in the United States by the foreign state; or that property or any property exchanged for such property is owned or operated by an agency or instrumentality of the foreign state and that agency or instrumentality is engaged in a commercial activity in the United States;

“(4) in which rights in property in the United States acquired by succession or gift or rights in immovable property situated in the United States are in issue; or

“(5) not otherwise encompassed in paragraph (2) above, in which money damages are sought against a foreign state for personal injury or death, or damage to or loss of property, occurring in the United States and caused by the tortious act or omission of that foreign state or of any official or employee of that foreign state while acting within the scope of his office or employment; except this paragraph shall not apply to—

“(A) any claim based upon the exercise or performance or the failure to exercise or perform a discretionary function regardless of whether the discretion be abused, or

“(B) any claim arising out of malicious prosecution, abuse of process, libel, slander, misrepresentation, deceit, or interference with contract rights.

“(b) A foreign state shall not be immune from the jurisdiction of the courts of the United States in any case in which a suit in admiralty is brought to enforce a maritime lien against a vessel or cargo of the foreign state, which maritime lien is based upon a commercial activity of the foreign state: *Provided*, That—

“(1) notice of the suit is given by delivery of a copy of the summons and of the complaint to the person, or his agent, having possession of the vessel or cargo against which the maritime lien

is asserted; but such notice shall not be deemed to have been delivered, nor may it thereafter be delivered, if the vessel or cargo is arrested pursuant to process obtained on behalf of the party bringing the suit—unless the party was unaware that the vessel or cargo of a foreign state was involved, in which event the service of process of arrest shall be deemed to constitute valid delivery of such notice; and

“(2) notice to the foreign state of the commencement of suit as provided in section 1608 of this title is initiated within ten days either of the delivery of notice as provided in subsection (b) (1) of this section or, in the case of a party who was unaware that the vessel or cargo of a foreign state was involved, of the date such party determined the existence of the foreign state’s interest.

Whenever notice is delivered under subsection (b) (1) of this section, the maritime lien shall thereafter be deemed to be an in personam claim against the foreign state which at that time owns the vessel or cargo involved: *Provided*, That a court may not award judgment against the foreign state in an amount greater than the value of the vessel or cargo upon which the maritime lien arose, such value to be determined as of the time notice is served under subsection (b) (1) of this section.

“§ 1606. Extent of liability

“As to any claim for relief with respect to which a foreign state is not entitled to immunity under section 1605 or 1607 of this chapter, the foreign state shall be liable in the same manner and to the same extent as a private individual under like circumstances; but a foreign state except for an agency or instrumentality thereof shall not be liable for punitive damages; if, however, in any case wherein death was caused, the law of the place where the action or omission occurred provides, or has been construed to provide, for damages only punitive in nature, the foreign state shall be liable for actual or compensatory damages measured by the pecuniary injuries resulting from such death which were incurred by the persons for whose benefit the action was brought.

“§ 1607. Counterclaims

“In any action brought by a foreign state, or in which a foreign state intervenes, in a court of the United States or of a State, the foreign state shall not be accorded immunity with respect to any counterclaim—

“(a) for which a foreign state would not be entitled to immunity under section 1605 of this chapter had such claim been brought in a separate action against the foreign state; or

“(b) arising out of the transaction or occurrence that is the subject matter of the claim of the foreign state; or

“(c) to the extent that the counterclaim does not seek relief exceeding in amount or differing in kind from that sought by the foreign state.

“§ 1608. Service; time to answer; default

“(a) Service in the courts of the United States and of the States shall be made upon a foreign state or political subdivision of a foreign state:

“(1) by delivery of a copy of the summons and complaint in accordance with any special arrangement for service between the plaintiff and the foreign state or political subdivision; or

“(2) if no special arrangement exists, by delivery of a copy of the summons and complaint in accordance with an applicable international convention on service of judicial documents; or

“(3) if service cannot be made under paragraphs (1) or (2), by sending a copy of the summons and complaint and a notice of suit, together with a translation of each into the official language of the foreign state, by any form of mail requiring a signed receipt, to be addressed and dispatched by the clerk of the court to the head of the ministry of foreign affairs of the foreign state concerned, or

“(4) if service cannot be made within 30 days under paragraph (3), by sending two copies of the summons and complaint and a notice of suit, together with a translation of each into the official language of the foreign state, by any form of mail requiring a signed receipt, to be addressed and dispatched by the clerk of the court to the Secretary of State in Washington, District of Columbia, to the attention of the Director of Special Consular Services—and the Secretary shall transmit one copy of the papers through diplomatic channels to the foreign state and shall send to the clerk of the court a certified copy of the diplomatic note indicating when the papers were transmitted.

As used in this subsection, a ‘notice of suit’ shall mean a notice addressed to a foreign state and in a form prescribed by the Secretary of State by regulation.

“(b) Service in the courts of the United States and of the States shall be made upon an agency or instrumentality of a foreign state:

“(1) by delivery of a copy of the summons and complaint in accordance with any special arrangement for service between the plaintiff and the agency or instrumentality; or

“(2) if no special arrangement exists, by delivery of a copy of the summons and complaint either to an officer, a managing or general agent, or to any other agent authorized by appointment or by law to receive service of process in the United States; or in accordance with an applicable international convention on service of judicial documents; or

“(3) if service cannot be made under paragraphs (1) or (2), and if reasonably calculated to give actual notice, by delivery of a copy of the summons and complaint, together with a translation of each into the official language of the foreign state—

“(A) as directed by an authority of the foreign state or political subdivision in response to a letter rogatory or request or

“(B) by any form of mail requiring a signed receipt, to be addressed and dispatched by the clerk of the court to the agency or instrumentality to be served, or

“(C) as directed by order of the court consistent with the law of the place where service is to be made.

“(c) Service shall be deemed to have been made—

“(1) in the case of service under subsection (a) (4), as of the date of transmittal indicated in the certified copy of the diplomatic note; and

“(2) in any other case under this section, as of the date of receipt indicated in the certification, signed and returned postal receipt, or other proof of service applicable to the method of service employed.

“(d) In any action brought in a court of the United States or of a State, a foreign state, a political subdivision thereof, or an agency or instrumentality of a foreign state shall serve an answer or other responsive pleading to the complaint within sixty days after service has been made under this section.

“(e) No judgment by default shall be entered by a court of the United States or of a State against a foreign state, a political subdivision thereof, or an agency or instrumentality of a foreign state, unless the claimant establishes his claim or right to relief by evidence satisfactory to the court. A copy of any such default judgment shall be sent to the foreign state or political subdivision in the manner prescribed for service in this section.

“§ 1609. Immunity from attachment and execution of property of a foreign state

“Subject to existing international agreements to which the United States is a party at the time of enactment of this Act the property in the United States of a foreign state shall be immune from attachment arrest and execution except as provided in sections 1610 and 1611 of this chapter.

“§ 1610. Exceptions to the immunity from attachment or execution

“(a) The property in the United States of a foreign state, as defined in section 1603(a) of this chapter, used for a commercial activity in the United States, shall not be immune from attachment in aid of execution, or from execution, upon a judgment entered by a court of the United States or of a State after the effective date of this Act, if—

“(1) the foreign state has waived its immunity from attachment in aid of execution or from execution either explicitly or by implication, notwithstanding any withdrawal of the waiver the foreign state may purport to effect except in accordance with the terms of the waiver, or

“(2) the property is or was used for the commercial activity upon which the claim is based, or

“(3) the execution relates to a judgment establishing rights in property which has been taken in violation of international law or which has been exchanged for property taken in violation of international law, or

“(4) the execution relates to a judgment establishing rights in property—

“(A) which is acquired by succession or gift, or

“(B) which is immovable and situated in the United States: *Provided*, That such property is not used for purposes of maintaining a diplomatic or consular mission or the residence of the Chief of such mission, or

“(5) the property consists of any contractual obligation or any proceeds from such a contractual obligation to indemnify or hold harmless the foreign state or its employees under a policy of automobile or other liability or casualty insurance covering the claim which merged into the judgment.

“(b) In addition to subsection (a), any property in the United States of an agency or instrumentality of a foreign state engaged in commercial activity in the United States shall not be immune from attachment in aid of execution, or from execution, upon a judgment entered by a court of the United States or of a State after the effective date of this Act, if—

“(1) the agency or instrumentality has waived its immunity from attachment in aid of execution or from execution either explicitly or implicitly, notwithstanding any withdrawal of the waiver the agency or instrumentality may purport to effect except in accordance with the terms of the waiver, or

“(2) the judgment relates to a claim for which the agency or instrumentality is not immune by virtue of section 1605(a) (2), (3), or (5), or 1605(b) of this chapter, regardless of whether the property is or was used for the activity upon which the claim is based.

“(c) No attachment or execution referred to in subsections (a) and (b) of this section shall be permitted until the court has ordered such attachment and execution after having determined that a reasonable period of time has elapsed following the entry of judgment and the giving of any notice required under section 1608(e) of this chapter.

“(d) The property of a foreign state, as defined in section 1603(a) of this chapter, used for a commercial activity in the United States, shall not be immune from attachment prior to the entry of judgment in any action brought in a court of the United States or of a State, or prior to the elapse of the period of time provided in subsection (c) of this section, if—

“(1) the foreign state has explicitly waived its immunity from attachment prior to judgment, notwithstanding any withdrawal of the waiver the foreign state may purport to effect except in accordance with the terms of the waiver, and

“(2) the purpose of the attachment is to secure satisfaction of a judgment that has been or may ultimately be entered against the foreign state, and not to obtain jurisdiction.

“§ 1611. Certain types of property immune from execution

“(a) Notwithstanding the provisions of section 1610 of this chapter, the property of those organizations designated by the President as being entitled to enjoy the privileges, exemptions, and immunities provided by the International Organizations Immunities Act shall not be subject to attachment or any other judicial process impeding the disbursement of funds to, or on the order of, a foreign state as the result of an action brought in the courts of the United States or of the States.

“(b) Notwithstanding the provisions of section 1610 of this chapter, the property of a foreign state shall be immune from attachment and from execution, if—

“(1) the property is that of a foreign central bank or monetary authority held for its own account, unless such bank or authority, or its parent foreign government, has explicitly waived its immunity from attachment in aid of execution, or from execution notwithstanding any withdrawal of the waiver which the bank,

authority or government may purport to effect except in accordance with the terms of the waiver; or

“(2) the property is, or is intended to be, used in connection with a military activity and

“(A) is of a military character, or

“(B) is under the control of a military authority or defense agency.”

(b) That the analysis of “PART IV.—JURISDICTION AND VENUE” of title 28, United States Code, is amended by inserting after—

“95. Customs Court.”,

the following new item:

“97. Jurisdictional Immunities of Foreign States.”.

SEC. 5. That section 1391 of title 28, United States Code, is amended by adding at the end thereof the following new subsection:

“(f) A civil action against a foreign state as defined in section 1603(a) of this title may be brought—

“(1) in any judicial district in which a substantial part of the events or omissions giving rise to the claim occurred, or a substantial part of property that is the subject of the action is situated;

“(2) in any judicial district in which the vessel or cargo of a foreign state is situated, if the claim is asserted under section 1605(b) of this title;

“(3) in any judicial district in which the agency or instrumentality is licensed to do business or is doing business, if the action is brought against an agency or instrumentality of a foreign state as defined in section 1603(b) of this title; or

“(4) in the United States District Court for the District of Columbia if the action is brought against a foreign state or political subdivision thereof.”.

SEC. 6. That section 1441 of title 28, United States Code, is amended by adding at the end thereof the following new subsection:

“(d) Any civil action brought in a State court against a foreign state as defined in section 1603(a) of this title may be removed by the foreign state to the district court of the United States for the district and division embracing the place where such action is pending. Upon removal the action shall be tried by the court without jury. Where removal is based upon this subsection, the time limitations of section 1446(b) of this chapter may be enlarged at any time for cause shown.”.

SEC. 7. If any provision of this Act or the application thereof to any foreign state is held invalid, the invalidity does not affect other provisions or applications of the Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are severable.

SEC. 8. This Act shall take effect ninety days after the date of its enactment.

K. WAR POWERS, COLLECTIVE SECURITY, AND RELATED MATERIAL

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1. War Powers

a. War Powers Resolution

Public Law 93-148 [H.J. Res. 542], 87 Stat. 555, passed over President's veto
November 7, 1973

JOINT RESOLUTION Concerning the war powers of Congress and the President

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This joint resolution may be cited as the "War Powers Resolution".

PURPOSE AND POLICY

SEC. 2. (a) It is the purpose of this joint resolution to fulfill the intent of the framers of the Constitution of the United States and insure that the collective judgment of both the Congress and the President will apply to the introduction of United States Armed Forces into hostilities, or into situations where imminent involvement in hostilities is clearly indicated by the circumstances, and to the continued use of such forces in hostilities or in such situations.

(b) Under article I, section 8, of the Constitution, it is specifically provided that the Congress shall have the power to make all laws necessary and proper for carrying into execution, not only its own powers but also all other powers vested by the Constitution in the Government of the United States, or in any department or officer thereof.

(c) The constitutional powers of the President as Commander-in-Chief to introduce United States Armed Forces into hostilities, or into situations where imminent involvement in hostilities is clearly indicated by the circumstances, are exercised only pursuant to (1) a declaration of war, (2) specific statutory authorization, or (3) a national emergency created by attack upon the United States, its territories or possessions, or its armed forces.

CONSULTATION

SEC. 3. The President in every possible instance shall consult with Congress before introducing United States Armed Forces into hostilities or into situations where imminent involvement in hostilities is clearly indicated by the circumstances, and after every such introduction shall consult regularly with the Congress until United States Armed Forces are no longer engaged in hostilities or have been removed from such situations.

REPORTING

SEC. 4. (a) In the absence of a declaration of war, in any case in which United States Armed Forces are introduced—

(1) into hostilities or into situations where imminent involvement in hostilities is clearly indicated by the circumstances;

(2) into the territory, airspace or waters of a foreign nation, while equipped for combat, except for deployments which relate solely to supply, replacement, repair, or training of such forces; or

(3) in numbers which substantially enlarge United States Armed Forces equipped for combat already located in a foreign nation;

the President shall submit within 48 hours to the Speaker of the House of Representatives and to the President pro tempore of the Senate a report, in writing, setting forth—

(A) the circumstances necessitating the introduction of United States Armed Forces;

(B) the constitutional and legislative authority under which such introduction took place; and

(C) the estimated scope and duration of the hostilities or involvement.

(b) The President shall provide such other information as the Congress may request in the fulfillment of its constitutional responsibilities with respect to committing the Nation to war and to the use of United States Armed Forces abroad.

(c) Whenever United States Armed Forces are introduced into hostilities or into any situation described in subsection (a) of this section, the President shall, so long as such armed forces continue to be engaged in such hostilities or situation, report to the Congress periodically on the status of such hostilities or situation as well as on the scope and duration of such hostilities or situation, but in no event shall he report to the Congress less often than once every six months.

CONGRESSIONAL ACTION

SEC. 5. (a) Each report submitted pursuant to section 4(a)(1) shall be transmitted to the Speaker of the House of Representatives and to the President pro tempore of the Senate on the same calendar day. Each report so transmitted shall be referred to the Committee on Foreign Affairs of the House of Representatives and to the Committee on Foreign Relations of the Senate for appropriate action. If, when the report is transmitted, the Congress has adjourned sine die or has adjourned for any period in excess of three calendar days, the Speaker of the House of Representatives and the President pro tempore of the Senate, if they deem it advisable (or if petitioned by at least 30 percent of the membership of their respective Houses) shall jointly request the President to convene Congress in order that it may consider the report and take appropriate action pursuant to this section.

(b) Within sixty calendar days after a report is submitted or is required to be submitted pursuant to section 4(a)(1), whichever is earlier, the President shall terminate any use of United States Armed

Forces with respect to which such report was submitted (or required to be submitted), unless the Congress (1) has declared war or has enacted a specific authorization for such use of United States Armed Forces, (2) has extended by law such sixty-day period, or (3) is physically unable to meet as a result of an armed attack upon the United States. Such sixty-day period shall be extended for not more than an additional thirty days if the President determines and certifies to the Congress in writing that unavoidable military necessity respecting the safety of United States Armed Forces requires the continued use of such armed forces in the course of bringing about a prompt removal of such forces.

(c) Notwithstanding subsection (b), at any time that United States Armed Forces are engaged in hostilities outside the territory of the United States, its possessions and territories without a declaration of war or specific statutory authorization, such forces shall be removed by the President if the Congress so directs by concurrent resolution.

CONGRESSIONAL PRIORITY PROCEDURES FOR JOINT RESOLUTION OR BILL

SEC. 6. (a) Any joint resolution or bill introduced pursuant to section 5(b) at least thirty calendar days before the expiration of the sixty-day period specified in such section shall be referred to the Committee on Foreign Affairs of the House of Representatives or the Committee on Foreign Relations of the Senate, as the case may be, and such committee shall report one such joint resolution or bill, together with its recommendations, not later than twenty-four calendar days before the expiration of the sixty-day period specified in such section, unless such House shall otherwise determine by the yeas and nays.

(b) Any joint resolution or bill so reported shall become the pending business of the House in question (in the case of the Senate the time for debate shall be equally divided between the proponents and the opponents), and shall be voted on within three calendar days thereafter, unless such House shall otherwise determine by yeas and nays.

(c) Such a joint resolution or bill passed by one House shall be referred to the committee of the other House named in subsection (a) and shall be reported out not later than fourteen calendar days before the expiration of the sixty-day period specified in section 5(b). The joint resolution or bill so reported shall become the pending business of the House in question and shall be voted on within three calendar days after it has been reported, unless such House shall otherwise determine by yeas and nays.

(d) In the case of any disagreement between the two Houses of Congress with respect to a joint resolution or bill passed by both Houses, conferees shall be promptly appointed and the committee of conference shall make and file a report with respect to such resolution or bill not later than four calendar days before the expiration of the sixty-day period specified in section 5(b). In the event the conferees are unable to agree within 48 hours, they shall report back to their respective Houses in disagreement. Notwithstanding any rule in either House concerning the printing of conference reports in the Record or concerning any delay in the consideration of such reports, such report shall be acted on by both Houses not later than the expiration of such sixty-day period.

CONGRESSIONAL PRIORITY PROCEDURES FOR CONCURRENT RESOLUTION

SEC. 7. (a) Any concurrent resolution introduced pursuant to section 5(c) shall be referred to the Committee on Foreign Affairs of the House of Representatives or the Committee on Foreign Relations of the Senate, as the case may be, and one such concurrent resolution shall be reported out by such committee together with its recommendations within fifteen calendar days, unless such House shall otherwise determine by the yeas and nays.

(b) Any concurrent resolution so reported shall become the pending business of the House in question (in the case of the Senate the time for debate shall be equally divided between the proponents and the opponents) and shall be voted on within three calendar days thereafter, unless such House shall otherwise determine by yeas and nays.

(c) Such a concurrent resolution passed by one House shall be referred to the committee of the other House named in subsection (a) and shall be reported out by such committee together with its recommendations within fifteen calendar days and shall thereupon become the pending business of such House and shall be voted upon within three calendar days, unless such House shall otherwise determine by yeas and nays.

(d) In the case of any disagreement between the two Houses of Congress with respect to a concurrent resolution passed by both Houses, conferees shall be promptly appointed and the committee of conference shall make and file a report with respect to such concurrent resolution within six calendar days after the legislation is referred to the committee of conference. Notwithstanding any rule in either House concerning the printing of conference reports in the Record or concerning any delay in the consideration of such reports, such report shall be acted on by both Houses not later than six calendar days after the conference report is filed. In the event the conferees are unable to agree within 48 hours, they shall report back to their respective Houses in disagreement.

INTERPRETATION OF JOINT RESOLUTION

SEC. 8. (a) Authority to introduce United States Armed Forces into hostilities or into situations wherein involvement in hostilities is clearly indicated by the circumstances shall not be inferred—

(1) from any provision of law (whether or not in effect before the date of the enactment of this joint resolution), including any provision contained in any appropriation Act, unless such provision specifically authorizes the introduction of United States Armed Forces into hostilities or into such situations and states that it is intended to constitute specific statutory authorization within the meaning of this joint resolution; or

(2) from any treaty heretofore or hereafter ratified unless such treaty is implemented by legislation specifically authorizing the introduction of United States Armed Forces into hostilities or into such situations and stating that it is intended to constitute specific statutory authorization within the meaning of this joint resolution.

(b) Nothing in this joint resolution shall be construed to require any further specific statutory authorization to permit members of

United States Armed Forces to participate jointly with members of the armed forces of one or more foreign countries in the headquarters operations of high-level military commands which were established prior to the date of enactment of this joint resolution and pursuant to the United Nations Charter or any treaty ratified by the United States prior to such date.

(c) For purposes of this joint resolution, the term "introduction of United States Armed Forces" includes the assignment of members of such armed forces to command, coordinate, participate in the movement of, or accompany the regular or irregular military forces of any foreign country or government when such military forces are engaged, or there exists an imminent threat that such forces will become engaged, in hostilities.

(d) Nothing in this joint resolution—

(1) is intended to alter the constitutional authority of the Congress or of the President, or the provisions of existing treaties; or

(2) shall be construed as granting any authority to the President with respect to the introduction of United States Armed Forces into hostilities or into situations wherein involvement in hostilities is clearly indicated by the circumstances which authority he would not have had in the absence of this joint resolution.

SEPARABILITY CLAUSE

SEC. 9. If any provision of this joint resolution or the application thereof to any person or circumstance is held invalid, the remainder of the joint resolution and the application of such provision to any other person or circumstance shall not be affected thereby.

EFFECTIVE DATE

SEC. 10. This joint resolution shall take effect on the date of its enactment.

b. National Emergencies Act as amended ¹

Public Law 94-412 [H.R. 3884], 90 Stat. 1255, approved September 14, 1976, as amended by Public Law 95-223 [H.R. 7738], 91 Stat. 1625, approved December 28, 1977

AN ACT To terminate certain authorities with respect to national emergencies still in effect, and to provide for orderly implementation and termination of future national emergencies.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "National Emergencies Act".

TITLE I—TERMINATING EXISTING DECLARED EMERGENCIES

SEC. 101. (a) All powers and authorities possessed by the President, any other officer or employee of the Federal Government, or any executive agency, as defined in section 105 of title 5, United States Code, as a result of the existence of any declaration of national emergency in effect on the date of enactment of this Act are terminated two years from the date of such enactment. Such termination shall not affect—

(1) any action taken or proceeding pending not finally concluded or determined on such date;

(2) any action or proceeding based on any act committed prior to such date; or

(3) any rights or duties that matured or penalties that were incurred prior to such date.

(b) For the purpose of this section, the words "any national emergency in effect" means a general declaration of emergency made by the President.

TITLE II—DECLARATIONS OF FUTURE NATIONAL EMERGENCIES

SEC. 201. (a) With respect to Acts of Congress authorizing the exercise, during the period of a national emergency, of any special or extraordinary power, the President is authorized to declare such national emergency. Such proclamation shall immediately be transmitted to the Congress and published in the Federal Register.

(b) Any provisions of law conferring powers and authorities to be exercised during a national emergency shall be effective and remain in effect (1) only when the President (in accordance with subsection (a) of this section), specifically declares a national emergency, and (2) only in accordance with this Act. No law enacted after the date of enactment of this Act shall supersede this title unless it does so in specific terms, referring to this title, and declaring that the new law supersedes the provisions of this title.

¹ 50 USC 1601-1651.

SEC. 202. (a) Any national emergency declared by the President in accordance with this title shall terminate if—

(1) Congress terminates the emergency by concurrent resolution; or

(2) the President issues a proclamation terminating the emergency.

Any national emergency declared by the President shall be terminated on the date specified in any concurrent resolution referred to in clause (1) or on the date specified in a proclamation by the President terminating the emergency as provided in clause (2) of this subsection, whichever date is earlier, and any powers or authorities exercised by reason of said emergency shall cease to be exercised after such specified date, except that such termination shall not affect—

(A) any action taken or proceeding pending not finally concluded or determined on such date;

(B) any action or proceeding based on any act committed prior to such date; or

(C) any rights or duties that matured or penalties that were incurred prior to such date.

(b) Not later than six months after a national emergency is declared, and not later than the end of each six-month period thereafter that such emergency continues, each House of Congress shall meet to consider a vote on a concurrent resolution to determine whether that emergency shall be terminated.

(c) (1) A concurrent resolution to terminate a national emergency declared by the President shall be referred to the appropriate committee of the House of Representatives or the Senate, as the case may be. One such concurrent resolution shall be reported out by such committee together with its recommendations within fifteen calendar days after the day on which such resolution is referred to such committee, unless such House shall otherwise determine by the yeas and nays.

(2) Any concurrent resolution so reported shall become the pending business of the House in question (in the case of the Senate the time for debate shall be equally divided between the proponents and the opponents) and shall be voted on within three calendar days after the day on which such resolution is reported, unless such House shall otherwise determine by yeas and nays.

(3) Such a concurrent resolution passed by one House shall be referred to the appropriate committee of the other House and shall be reported out by such committee together with its recommendations within fifteen calendar days after the day on which such resolution is referred to such committee and shall thereupon become the pending business of such House and shall be voted upon within three calendar days after the day on which such resolution is reported, unless such House shall otherwise determine by yeas and nays.

(4) In the case of any disagreement between the two Houses of Congress with respect to a concurrent resolution passed by both Houses, conferees shall be promptly appointed and the committee of conference shall make and file a report with respect to such concurrent resolution within six calendar days after the day on which managers on the part of the Senate and the House have been appointed. Notwithstanding any rule in either House concerning the printing of

conference reports or concerning any delay in the consideration of such reports, such report shall be acted on by both Houses not later than six calendar days after the conference report is filed in the House in which such report is filed first. In the event the conferees are unable to agree within forty-eight hours, they shall report back to their respective Houses in disagreement.

(5) Paragraphs (1)–(4) of this subsection, subsection (b) of this section, and section 502(b) of this Act are enacted by Congress—

(A) as an exercise of the rulemaking power of the Senate and the House of Representatives, respectively, and as such they are deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in the House in the case of resolutions described by this subsection; and they supersede other rules only to the extent that they are inconsistent therewith; and

(B) with full recognition of the constitutional right of either House to change the rules (so far as relating to the procedure of that House) at any time, in the same manner, and to the same extent as in the case of any other rule of that House.

(d) Any national emergency declared by the President in accordance with this title, and not otherwise previously terminated, shall terminate on the anniversary of the declaration of that emergency if, within the ninety-day period prior to each anniversary date, the President does not publish in the Federal Register and transmit to the Congress a notice stating that such emergency is to continue in effect after such anniversary.

TITLE III—EXERCISE OF EMERGENCY POWERS AND AUTHORITIES

SEC. 301. When the President declares a national emergency, no powers or authorities made available by statute for use in the event of an emergency shall be exercised unless and until the President specifies the provisions of law under which he proposes that he, or other officers will act. Such specification may be made either in the declaration of a national emergency, or by one or more contemporaneous or subsequent Executive orders published in the Federal Register and transmitted to the Congress.

TITLE IV—ACCOUNTABILITY AND REPORTING REQUIREMENTS OF THE PRESIDENT

SEC. 401. (a) When the President declares a national emergency, or Congress declares war, the President shall be responsible for maintaining a file and index of all significant orders of the President, including Executive orders and proclamations, and each Executive agency shall maintain a file and index of all rules and regulations, issued during such emergency or war issued pursuant to such declarations.

(b) All such significant orders of the President, including Executive orders, and such rules and regulations shall be transmitted to the Congress promptly under means to assure confidentiality where appropriate.

(c) When the President declares a national emergency or Congress declares war, the President shall transmit to Congress, within ninety days after the end of each six-month period after such declarations, a report on the total expenditures incurred by the United States Government during such six-month period which are directly attributable to the exercise of powers and authorities conferred by such declaration. Not later than ninety days after the termination of each such emergency or war, the President shall transmit a final report on all such expenditures.

TITLE V—REPEAL AND CONTINUATION OF CERTAIN EMERGENCY POWER AND OTHER STATUTES

SEC. 501. (a) Section 349(a) of the Immigration and Nationality Act (8 U.S.C. 1481(a)) is amended—

(1) at the end of paragraph (9), by striking out “; or” and inserting in lieu thereof a period; and

(2) by striking out paragraph (10).

(b) Section 2667(b) of title 10 of the United States Code is amended—

(1) by inserting “and” at the end of paragraph (3);

(2) by striking out paragraph (4); and

(3) by redesignating paragraph (5) as (4).

(c) The joint resolution entitled “Joint resolution to authorize the temporary continuation of regulation of consumer credit”, approved August 8, 1947 (12 U.S.C. 249), is repealed.

(d) Section 5(m) of the Tennessee Valley Authority Act of 1933 as amended (16 U.S.C. 831d(m)) is repealed.

(e) Section 1383 of title 18, United States Code, is repealed.

(f) Section 6 of the Act entitled “An Act to amend the Public Health Service Act in regard to certain matters of personnel and administration, and for other purposes”, approved February 28, 1948, is amended by striking out subsections (b), (c), (d), (e), and (f) (42 U.S.C. 211b).

(g) Section 9 of the Merchant Ship Sales Act of 1946 (50 U.S.C. App. 1742) is repealed.

(h) This section shall not affect—

(1) any action taken or proceeding pending not finally concluded or determined at the time of repeal;

(2) any action or proceeding based on any act committed prior to repeal; or

(3) any rights or duties that matured or penalties that were incurred prior to repeal.

SEC. 502. (a) The provisions of this Act shall not apply to the following provisions of law, the powers and authorities conferred thereby, and actions taken thereunder:

(1) * * * [Repealed—1977]²

(2) Act of April 28, 1942 (40 U.S.C. 278b);

(3) Act of June 30, 1949 (41 U.S.C. 252);

(4) Section 3477 of the Revised Statutes, as amended (31 U.S.C. 203);

² Paragraph (1), which contained a reference to section 5(b) of the Trading With the Enemy Act, was repealed by Sec. 101(d) of Public Law 95-223 (91 Stat. 1625).

(5) Section 3737 of the Revised Statutes, as amended (41 U.S.C. 15);

(6) Public Law 85-804 (Act of Aug. 28, 1958, 72 Stat. 972; 50 U.S.C. 1431-1435);

(7) Section 2304(a)(1) of title 10, United States Code;

(8) Sections 3313, 6386(c), and 8313 of title 10, United States Code.

(b) Each committee of the House of Representatives and the Senate having jurisdiction with respect to any provision of law referred to in subsection (a) of this section shall make a complete study and investigation concerning that provision of law and make a report, including any recommendations and proposed revisions such committee may have, to its respective House of Congress within two hundred and seventy days after the date of enactment of this Act.

2. Cuban Resolution

Public Law 87-733 [S.J. Res. 230], 76 Stat. 697, approved October 3, 1962

JOINT RESOLUTION Expressing the determination of the United States with respect to the situation in Cuba.

Whereas President James Monroe, announcing the Monroe Doctrine in 1823, declared that the United States would consider any attempt on the part of European powers "to extend their system to any portion of this hemisphere as dangerous to our peace and safety"; and

Whereas in the Rio Treaty of 1947 the parties agreed that "an armed attack by any State against an American State shall be considered as an attack against all the American States, and, consequently, each one of the said contracting parties undertakes to assist in meeting the attack in the exercise of the inherent right of individual or collective self-defense recognized by article 51 of the Charter of the United Nations"; and

Whereas the Foreign Ministers of the Organization of American States at Punta del Este in January 1962 declared: "The present Government of Cuba has identified itself with the principles of Marxist-Leninist ideology, has established a political, economic, and social system based on that doctrine, and accepts military assistance from extracontinental Communist powers, including even the threat of military intervention in America on the part of the Soviet Union"; and

Whereas the international Communist movement has increasingly extended into Cuba its political, economic, and military sphere of influence: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the United States is determined—

(a) to prevent by whatever means may be necessary, including the use of arms, the Marxist-Leninist regime in Cuba from extending, by force or the threat of force, its aggressive or subversive activities to any part of this hemisphere;

(b) to prevent in Cuba the creation or use of an externally supported military capability endangering the security of the United States; and

(c) to work with the Organization of American States and with freedom-loving Cubans to support the aspirations of the Cuban people for self-determination.

3. Middle East Resolutions

a. Resolution to Promote Peace and Stability in the Middle East

Public Law 85-7 [H.J. Res. 117], 71 Stat. 5, approved March 9, 1957, as amended by the Foreign Assistance Act of 1961, Public Law 87-195 [S. 1983], 75 Stat. 424, approved September 4, 1961¹

JOINT RESOLUTION To promote peace and stability in the Middle East.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President be and hereby is authorized to cooperate with and assist any nation or group of nations in the general area of the Middle East desiring such assistance in the development of economic strength dedicated to the maintenance of national independence.

Sec. 2. The President is authorized to undertake, in the general area of the Middle East, military assistance programs with any nation or group of nations of that area desiring such assistance. Furthermore, the United States regards as vital to the national interest and world peace the preservation of the independence and integrity of the nations of the Middle East. To this end, if the President determines the necessity thereof, the United States is prepared to use armed forces to assist any nation or group of such nations requesting assistance against armed aggression from any country controlled by international communism: *Provided*, That such employment shall be consonant with the treaty obligations of the United States and with the Constitution of the United States.

Sec. 3. The President is hereby authorized to use during the balance of fiscal year 1957 for economic and military assistance under this joint resolution not to exceed \$200,000,000 from any appropriation now available for carrying out the provisions of the Mutual Security Act of 1954, as amended, in accord with the provisions of such Act: *Provided*, That, whenever the President determines it to be important to the security of the United States, such use may be under the authority of section 401(a) of the Mutual Security Act of 1954, as amended (except that the provisions of section 105(a) thereof shall not be waived), and without regard to the provisions of section 105 of the Mutual Security Appropriation Act, 1957: *Provided, further*, That obligations incurred in carrying out the purposes of the first sentence of section 2 of this joint resolution shall be paid only out of appropriations for military assistance, and obligations incurred in carrying out the purposes of the first section of this joint resolution shall be paid only out of appropriations other than those for military assistance. This authorization is in addition to other existing authorizations with respect to the use of such appropriations. None of the additional authorizations contained in this section shall be used until fifteen days after the Committee on Foreign Relations of the Senate,

¹ 22 U.S.C. 1961-1965.

the Committee on Foreign Affairs of the House of Representatives, the Committees on Appropriations of the Senate and the House of Representatives and, when military assistance is involved, the Committees on Armed Services of the Senate and the House of Representatives have been furnished a report showing the object of the proposed use, the country for the benefit of which such use is intended, and the particular appropriation or appropriations for carrying out the provisions of the Mutual Security Act of 1954, as amended, from which the funds are proposed to be derived: *Provided*, That funds available under this section during the balance of fiscal year 1957 shall, in the case of any such report submitted during the last fifteen days of the fiscal year, remain available for use under this section for the purposes stated in such report for a period of twenty days following the date of submission of such report. Nothing contained in this joint resolution shall be construed as itself authorizing the appropriation of additional funds for the purpose of carrying out the provisions of the first section or of the first sentence of section 2 of this joint resolution.

Sec. 4. The President shall continue to furnish facilities and military assistance, within the provisions of applicable law and established policies, to the United Nations Emergency Force in the Middle East, with a view to maintaining the truce in that region.

Sec. 5. The President shall whenever appropriate² report to the Congress his action hereunder.

Sec. 6. This joint resolution shall expire when the President shall determine that the peace and security of the nations in the general area of the Middle East are reasonably assured by international conditions created by action of the United Nations or otherwise except that it may be terminated earlier by a concurrent resolution of the two Houses of Congress.

² Sec. 705 of the Foreign Assistance Act of 1961, Public Law 87-195 Stat. 463), substituted the words "whenever appropriate" in lieu of the words "within the months of January and July of each year".

b. Implementing the United States Proposal for the Early-Warning System in Sinai

Public Law 94-110 [H.J. Res. 683] 89 Stat. 572, approved October 13, 1975¹

JOINT RESOLUTION To implement the United States proposal for the early-warning system in Sinai

Whereas an agreement signed on September 4, 1975, by the Government of the Arab Republic of Egypt and the Government of Israel may, when it enters into force, constitute a significant step toward peace in the Middle East;

Whereas the President of the United States on September 1, 1975, transmitted to the Government of the Arab Republic of Egypt and to the Government of Israel identical proposals for United States participation in an early-warning system, the text of which has been submitted to the Congress, providing for the assignment of no more than two hundred United States civilian personnel to carry out certain specified noncombat functions and setting forth the terms and conditions thereof;

Whereas that proposal would permit the Government of the United States to withdraw such personnel if it concludes that their safety is jeopardized or that continuation of their role is no longer necessary; and

Whereas the implementation of the United States proposal for the early-warning system in Sinai may enhance the prospect of compliance in good faith with the terms of the Egyptian-Israeli agreements and thereby promote the cause of peace: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President is authorized to implement the "United States Proposal for the Early Warning System in Sinai": *Provided, however*, That United States civilian personnel assigned to Sinai under such proposal shall be removed immediately in the event of an outbreak of hostilities between Egypt and Israel or if the Congress by concurrent resolution determines that the safety of such personnel is jeopardized or that continuation of their role is no longer necessary. Nothing contained in this resolution shall be construed as granting any authority to the President with respect to the introduction of United States Armed Forces into hostilities or into situations wherein involvement in hostilities is clearly indicated by the circumstances which authority he would not have had in the absence of this joint resolution.

SEC. 2. Any concurrent resolution of the type described in the first section of this resolution which is introduced in either House of Congress shall be privileged in the same manner and to the same extent as

¹ 22 U.S.C. 2441 note.

a concurrent resolution of the type described in section 5(c) of Public Law 93-148² is privileged under section 7 of such law.

SEC. 3. The United States civilian personnel participating in the early warning system in Sinai shall include only individuals who have volunteered to participate in such system.

SEC. 4. Whenever United States civilian personnel, pursuant to this resolution, participate in an early warning system, the President shall, so long as the participation of such personnel continues, submit written reports to the Congress periodically, but no less frequently than once every six months, on (1) the status, scope, and anticipated duration of their participation, and (2) the feasibility of ending or reducing as soon as possible their participation by substituting nationals of other countries or by making technological changes. The appropriate committees of the Congress shall promptly hold hearings on each report of the President and report to the Congress any findings, conclusions, and recommendations.

SEC. 5. The authority contained in this joint resolution to implement the "United States Proposal for the Early Warning System in Sinai" does not signify approval of the Congress of any other agreement, understanding, or commitment made by the executive branch.

² 50 U.S.C. 1544, 1546. War Powers Resolution. See p. 367 for text.

c. Executive Order 11896, January 13, 1976, 41 F.R. 2067

ESTABLISHING THE UNITED STATES SINAI SUPPORT MISSION

By virtue of the authority vested in me by the Constitution and statutes of the United States of America, including the Joint Resolution of October 13, 1975 (Public Law 94-110, 89 Stat. 572, 22 U.S.C. 2441 note), the Foreign Assistance Act of 1961, as amended (22 U.S.C. 2151 et seq.), including but not limited to Sections 531, 621, 633, 901, and 903 thereof (22 U.S.C. 2346, 2381, 2393, 2443), and Section 301 of Title 3 of the United States Code, and as President of the United States of America, it is hereby ordered as follows:

Section 1. (a) In accordance with the Foreign Assistance Act of 1961, as amended, and notwithstanding the provisions of Part I of Executive Order No. 10973, as amended, there is hereby established the United States Sinai Support Mission, hereinafter referred to as the Mission.

(b) The Mission shall, in accordance with the Foreign Assistance Act of 1961, as amended, the Joint Resolution of October 13, 1975, and the provisions of this order, carry out the duties and responsibilities of the United States Government to implement the "United States Proposal for the Early Warning System in Sinai" in connection with the Basic Agreement between Egypt and Israel, signed on September 4, 1975, and the Annex to the Basic Agreement, subject to broad policy guidance received through the Assistant to the President for national security affairs, and the continuous supervision and general direction of the Secretary of State pursuant to Section 622(c) of the Foreign Assistance Act of 1961, as amended (22 U.S.C. 2382(c)).

(c) It shall be the duty and responsibility of the Mission to ensure that the United States role in the Early Warning System enhances the prospect of compliance in good faith with the terms of the Egyptian-Israeli agreement and thereby promotes the cause of peace.

(d) At the head of the Mission there shall be a Director, who shall be appointed by the President. The Director shall be a Special Representative of the President. There shall also be a Deputy Director, who shall be appointed by the President. The Deputy Director shall perform such duties as the Director may direct, and shall serve as the Director in the case of a vacancy in the office of the Director, or during the absence or disability of the Director.

(e) The Director and Deputy Director shall receive such compensation, as permitted by law, as the President may specify.

Sec. 2. (a) The Director shall exercise immediate supervision and direction over the Mission.

(b) The Director may, to the extent permitted by law, employ such staff as may be necessary.

(c) The Director may, to the extent permitted by law and the provisions of this order, enter into such contracts as may be necessary to carry out the purposes of this order.

(d) The Director may procure the temporary or intermittent services of experts or consultants, in accordance with the provisions of Section 626 of the Foreign Assistance Act of 1961, as amended (22 U.S.C. 2386), and section 3109 of title 5 of the United States Code.

(e) As requested by the Director, the agencies of the Executive branch shall, to the extent permitted by law and to the extent practicable, provide the Mission with such administrative services, information, advice, and facilities as may be necessary for the fulfillment of the Mission's functions under this order.

Sec. 3. (a) In accordance with the provisions of Section 633 of the Foreign Assistance Act of 1961, as amended (22 U.S.C. 2393), it is hereby determined to be in furtherance of the purposes of the Foreign Assistance Act of 1961, as amended, that the functions authorized by that act and required by this order, may be performed, subject to the provisions of subsection (b) of this Section, by the Director without regard to the following specified provisions of law and limitations of authority:

(1) Section 3648 of the Revised Statutes, as amended (31 U.S.C. 529).

(2) Section 3710 of the Revised Statutes (41 U.S.C. 8).

(3) Section 2 of Title III of the Act of March 3, 1933 (47 Stat. 1520, 41 U.S.C. 10a).

(4) Section 3735 of the Revised Statutes (41 U.S.C. 13).

(5) Section 3679 of the Revised Statutes, as amended (31 U.S.C. 665), Section 3732 of the Revised Statutes, as amended (41 U.S.C. 11), and Section 9 of the Act of June 30, 1906 (34 Stat. 764, 31 U.S.C. 627), so as to permit the indemnification of contractors against unusually hazardous risks, as defined in Mission contracts, consistent, to the extent practicable, with regulations prescribed by the Department of Defense pursuant to the provisions of the Act of August 28, 1958, as amended (50 U.S.C. 1431 et seq.) and Executive Order No. 10789 of November 14, 1958, as amended.

(6) Section 302(a) of the Federal Property and Administrative Services Act of 1949, as amended (41 U.S.C. 252(a)), so as to permit the Sinai Support Mission to utilize the procurement regulations promulgated by the Department of Defense pursuant to Section 2202 of Title 10 of the United States Code.

(7) Section 304(b) of the Federal Property and Administrative Services Act of 1949, as amended (41 U.S.C. 254(b)), so as to permit the payment of fees in excess of the prescribed fee limitations but nothing herein contained shall be construed to constitute authorization hereunder for the use of the cost-plus-a-percentage-of-cost system of contracting.

(8) Section 305 of the Federal Property and Administrative Services Act of 1949, as amended (41 U.S.C. 255).

(9) Section 901(a) of the Merchant Marine Act, 1936, as amended (46 U.S.C. 1241(a)).

(b) It is directed that each specific use of the waivers of statutes and limitations of authority authorized by this Section shall be made

only when determined in writing by the Director that such use is specifically necessary and in furtherance of the purposes of this Order and in the interests of the United States.

Sec. 4. (a) There is hereby established the Sinai Interagency Board, hereinafter referred to as the Board, which shall be composed of the following:

- (1) The Secretary of State or his representative.
- (2) The Secretary of Defense or his representative.
- (3) The Administrator, Agency for International Development, or his representative.
- (4) The Director of the United States Arms Control and Disarmament Agency or his representative.
- (5) The Director of Central Intelligence or his representative.
- (6) The Director of the United States Sinai Support Mission or his representative.

(b) The Director of the United States Sinai Support Mission or his representative shall be Chairman of the Board.

(c) The President may from time to time designate others to serve on, or participate in the activities of, the Board. The Board may invite representatives of other departments and agencies to participate in its activities.

(d) The Board shall meet at the call of the Chairman to assist, coordinate, and advise concerning the activities of the United States Sinai Support Mission.

Sec. 5. The Secretary of State shall, pursuant to the provisions of Executive Order No. 10973, as amended, including Part V thereof, and this order, provide from funds made available to the President the funds necessary for the activities of the United States Sinai Support Mission.

Sec. 6. All activities now being undertaken by the Secretary of State to implement the "United States Proposal for the Early Warning System in Sinai" shall be continued until such time as the Mission has become operational and the Director requests the transfer of those activities to the Mission. The Secretary of State may exercise any of the authority or responsibility vested in the Director, by this order, in order to continue the performance of activities related to the Early Warning System until transferred to the Director. All such activities undertaken by the Secretary of State shall be deemed to have been taken by a Director.

4. Berlin Resolution

House Concurrent Resolution 570, 87th Congress, 76 Stat. 1429, passed
October 10, 1962

CONCURRENT RESOLUTION

Whereas the primary purpose of the United States in its relations with all other nations is and has been to develop and sustain a just and enduring peace for all; and

Whereas it is the purpose of the United States to encourage and support the establishment of a free, unified, and democratic Germany; and

Whereas in connection with the termination of hostilities in World War II the United States, the United Kingdom, France, and the Soviet Union freely entered into binding agreements under which the four powers have the right to remain in Berlin, with the right of ingress and egress, until the conclusion of a final settlement with the Government of Germany; and

Whereas no such final settlement has been concluded by the four powers and the aforementioned agreements continue in force: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring),

That it is the sense of the Congress—

(a) that the continued exercise of United States, British, and French rights in Berlin constitutes a fundamental political and moral determination;

(b) that the United States would regard as intolerable any violation by the Soviet Union directly or through others of those rights in Berlin, including the right of ingress and egress;

(c) that the United States is determined to prevent by whatever means may be necessary, including the use of arms, any violation of those rights by the Soviet Union directly or through others, and to fulfill our commitment to the people of Berlin with respect to their resolve for freedom.

5. Indochina Resolutions

a. Tonkin Gulf Resolution

[Public Law 88-408 [H.J. Res. 1145] 78 Stat. 384, approved August 10, 1964]

[A JOINT RESOLUTION To promote the maintenance of international peace and security in southeast Asia.

[Whereas naval units of the Communist regime in Vietnam, in violation of the principles of the Charter of the United Nations and of international law, have deliberately and repeatedly attacked United States naval vessels lawfully present in international waters, and have thereby created a serious threat to international peace; and

[Whereas these attacks are part of a deliberate and systematic campaign of aggression that the Communist regime in North Vietnam has been waging against its neighbors and the nations joined with them in the collective defense of their freedom; and

[Whereas the United States is assisting the peoples of southeast Asia to protect their freedom and has no territorial, military or political ambitions in that area, but desires only that these peoples should be left in peace to work out their own destinies in their own way: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the Congress approves and supports the determination of the President, as Commander in Chief, to take all necessary measures to repel any armed attack against the forces of the United States and to prevent further aggression.

[Sec. 2. The United States regards as vital to its national interest and to world peace the maintenance of international peace and security in southeast Asia. Consonant with the Constitution of the United States and the Charter of the United Nations and in accordance with its obligations under the Southeast Asia Collective Defense Treaty, the United States is, therefore, prepared, as the President determines, to take all necessary steps, including the use of armed force, to assist any member or protocol state of the Southeast Asia Collective Defense Treaty requesting assistance in defense of its freedom.

[Sec. 3. This resolution shall expire when the President shall determine that the peace and security of the area is reasonably assured by international conditions created by action of the United Nations or otherwise, except that it may be terminated earlier by concurrent resolution of the Congress.]

NOTE.—Sec. 12 of Public Law 91-672, the Foreign Military Sales Act Amendments, approved January 12, 1971, provided that the joint resolution should terminate effective January 2, 1971. (See Vol. I, p. 318) See also, S. Con. Res. 64, passed July 10, 1970

b. Creation of a Select Committee to Investigate the Problem of United States Servicemen Missing in Action in Southeast Asia

House Resolution 335, 94th Congress, Agreed to September 11, 1975

Resolved, That (a) there is hereby established in the House of Representatives a select committee composed of ten Members of the House.

(b) Members shall be appointed by the Speaker of the House, and one Member shall be designated by the Speaker to serve as chairman.

(c) Any vacancy occurring in the membership of the select committee shall be filled in the same manner in which the original appointment was made.

SEC. 2. The select committee is authorized and directed to conduct a full and complete investigation and study of—

(1) the problem of United States servicemen still identified as missing in action, as well as those known dead whose bodies have not been recovered, as a result of military operations in North Vietnam, South Vietnam, Laos, and Cambodia and the problem of United States civilians identified as missing or unaccounted for, as well as those known dead whose bodies have not been recovered in North Vietnam, South Vietnam, Laos, and Cambodia;

(2) the need for additional international inspection teams to determine whether there are servicemen still held as prisoners of war or civilians held captive or unwillingly detained in the aforementioned areas.

SEC. 3. For the purposes of this resolution, this select committee is authorized to sit and act during the present Congress at times and places as it deems appropriate whether the House is sitting, has recessed, or has adjourned. The select committee is authorized to hold such hearings, and to require, by subpoena or other power, the attendance and testimony of such witnesses and the production of such books, records, correspondence, memoranda, papers, and documents as it deems necessary. The committee and its staff may conduct field investigations or inspections and shall be authorized to travel to Southeast Asia if deemed necessary to investigate aspects of the problem.

(b) Subpenas may be issued over the signature of the chairman of the select committee or any member designated by him, and may be served by any person designated by the chairman or such member.

(c) The chairman of the select committee, or any member designated by him, may administer oaths to any witness.

SEC. 4. To enable the select committee to carry out the purposes of this resolution, it is authorized to employ and fix compensation of such clerks, experts, consultants, technicians, and clerical and stenographic assistants as it deems necessary. The committee may reimburse the members of its staff for travel, subsistence, and other necessary expenses incurred by them in the performance of the duties vested in

the select committee other than expenses in connection with meetings of the select committee held in the District of Columbia.

SEC. 5. The select committee is authorized and directed to report to the House with respect to results of its investigation as soon as is practicable but not later than one year after adoption of the resolution. Any report made when the House is not in session shall be filed with the Clerk of the House.

SEC. 6. The authority granted herein shall expire thirty days after the filing of the report with the House of Representatives.

SEC. 7. The expenses of the select committee shall be paid from the contingent fund of the House of Representatives upon vouchers signed by the chairman of the select committee and approved by the Speaker.

6. National Commitment

Senate Resolution 85, 91st Congress, Report No. 91-129, agreed to June 25, 1969

RESOLUTION

Whereas accurate definition of the term "national commitment" in recent years has become obscured: Now, therefore, be it

Resolved, That (1) a national commitment for the purpose of this resolution means the use of the Armed Forces of the United States on foreign territory, or a promise to assist a foreign country, government, or people by the use of the Armed Forces or financial resources of the United States, either immediately or upon the happening of certain events, and (2) it is the sense of the Senate that a national commitment by the United States results only from affirmative action taken by the executive and legislative branches of the United States Government by means of a treaty, statute, or concurrent resolution of both Houses of Congress specifically providing for such commitment.

(387)

7. Treaty of Friendship and Cooperation Between the United States and Spain—Implementation for Fiscal Year 1977

Text of Public Law 94-537 [S. 3557] 90 Stat. 2498, approved October 18, 1976

AN ACT To authorize the obligation and expenditure of funds to implement for fiscal year 1977 the provisions of the Treaty of Friendship and Cooperation between the United States and Spain, signed at Madrid on January 24, 1976, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) in order to carry out the programs and activities provided for in the Treaty of Friendship and Cooperation between the United States of America and Spain,¹ signed at Madrid on January 24, 1976, including its Supplementary Agreements and the exchange of notes related to those Supplementary Agreements (hereinafter in this Act referred to as the "treaty") of the amounts authorized to be appropriated for fiscal year 1977 under section 507 of the International Security Assistance and Arms Export Control Act of 1976,² not to exceed the following amounts shall be available for obligation and expenditure to carry out the treaty:

(1) For military assistance under chapter 2 of part II of the Foreign Assistance Act of 1961,³ \$15,000,000.

(2) For security supporting assistance under chapter 4 of part II of such Act,⁴ \$7,000,000.

(3) For international military education and training under chapter 5 of part II of such Act,⁵ \$2,000,000.

(4) For guaranties under section 24 of the Arms Export Control Act,⁶ \$12,000,000.

(b) Subsection (b) of section 507 of the International Security Assistance and Arms Export Control Act of 1976 shall not apply with respect to the obligation or expenditure of funds appropriated under such section to carry out the treaty.

SEC. 2. (a) Except as provided in subsection (b), foreign assistance and military sales activities carried out pursuant to the treaty shall be conducted in accordance with provisions of law applicable to foreign assistance and military sales programs of the United States.

(b) Section 620(m) of the Foreign Assistance Act of 1961⁷ shall

¹ For text, see Sec. K, Vol. III.

² For text, see Vol. I, page 313.

³ For text, see Vol. I, page 85. FA Appropriations Act, 1977. *Provided further*, That \$15,000,000 of this appropriation shall be available only upon ratification of the Treaty of Friendship and Cooperation Between Spain and the United States of America."

⁴ For text, see Vol. I, page 98. FA Appropriation Act, 1977: *Provided further*, That \$7,000,000 of this appropriation shall be available only upon ratification of the Treaty of Friendship and Cooperation Between Spain and the United States of America."

⁵ For text, see Vol. I, page 100. FA Appropriations Act, 1977: "Provided, That \$2,000,000 of this appropriation shall be available only upon ratification of the Treaty of Friendship and Cooperation Between Spain and the United States of America."

⁶ For text, see Vol. I, page 286.

⁷ For text, see Vol. I, page 120.

not apply with respect to the programs and activities described in subsection (a).

(c) In carrying out the provisions of article VI of Supplementary Agreement Number 7 (relating to modernizing, semiautomating, and maintaining the aircraft control and warning network in Spain), the United States contribution of not to exceed \$50,000,000 shall be financed from Department of Defense appropriations available for that purpose.

(d) This Act satisfies the requirements of section 7307 of title 10 of the United States Code with respect to the transfer of naval vessels pursuant to Supplementary Agreement Number 7.

(e) In order to carry out the provisions of article X of Supplementary Agreement Number 7 (relating to lease and purchase of aircraft), the proceeds from the lease of aircraft to Spain under that article shall be available only for appropriation for the purchase of aircraft by the United States for the purposes of that article.

SEC. 3. The authorities contained in this Act shall become effective only upon such date as the treaty enters into force⁸ and shall continue in effect only so long as the treaty remains in force.

⁸ Entered into force September 21, 1976.

L. LAW OF THE SEAS AND SELECTED MARITIME LEGISLATION

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NOTE.—Conventions and agreements referred to by Acts in this section may be researched according to the conventional citations to such materials or by consulting the compilation *Treaties and Other International Agreements on Fisheries, Oceanographic Resources, and Wildlife Involving the United States*. U.S. Congress. Senate. Committee on Commerce, Science, and Transportation. Prepared by the Congressional Research Service, Library of Congress. Washington, U.S. Govt. Printing Off., 1977 (95th Congress, 1st Session. Committee Print, October 1977).

1. Law of the Seas

a. Fishery Conservation and Management Act of 1976 as amended

Partial Text of Public Law 94-265 [H.R. 200], 90 Stat. 331, approved April 13, 1976, as amended by Public Law 95-6 [H.J. Res. 240], 91 Stat. 14, approved February 1, 1977.

AN ACT To provide for the conservation and management of the fisheries, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act, with the following table of contents, may be cited as the "Fishery Conservation and Management Act of 1976".

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Sec. 406. Authorization of appropriations.

SEC. 2.¹ FINDINGS, PURPOSES AND POLICY.

- (a) FINDINGS.—The Congress finds and declares the following:
- (1) The fish off the coasts of the United States, the highly migratory species of the high seas, the species which dwell on or in the Continental Shelf appertaining to the United States, and the anadromous species which spawn in United States rivers or estuaries, constitute valuable and renewable natural resources.

¹ 16 U.S.C. 1801.

These fishery resources contribute to the food supply, economy, and health of the Nation and provide recreational opportunities.

(2) As a consequence of increased fishing pressure and because of the inadequacy of fishery conservation and management practices and controls (A) certain stocks of such fish have been overfished to the point where their survival is threatened, and (B) other such stocks have been so substantially reduced in number that they could become similarly threatened.

(3) Commercial and recreational fishing constitutes a major source of employment and contributes significantly to the economy of the Nation. Many coastal areas are dependent upon fishing and related activities, and their economies have been badly damaged by the overfishing of fishery resources at an ever-increasing rate over the past decade. The activities of massive foreign fishing fleets in waters adjacent to such coastal areas have contributed to such damage, interfered with domestic fishing efforts, and caused destruction of the fishing gear of United States fishermen.

(4) International fishery agreements have not been effective in preventing or terminating the overfishing of these valuable fishery resources. There is danger that irreversible effects from overfishing will take place before an effective international agreement on fishery management jurisdiction can be negotiated, signed, ratified, and implemented.

(5) Fishery resources are finite but renewable. If placed under sound management before overfishing has caused irreversible effects, the fisheries can be conserved and maintained so as to provide optimum yields on a continuing basis.

(6) A national program for the conservation and management of the fishery resources of the United States is necessary to prevent overfishing, to rebuild overfished stocks, to insure conservation, and to realize the full potential of the Nation's fishery resources.

(7) A national program for the development of fisheries which are underutilized or not utilized by United States fishermen, including bottom fish off Alaska, is necessary to assure that our citizens benefit from the employment, food supply, and revenue which could be generated thereby.

(b) PURPOSES.—It is therefore declared to be the purposes of the Congress in this Act—

(1) to take immediate action to conserve and manage the fishery resources found off the coasts of the United States, and the anadromous species and Continental Shelf fishery resources of the United States, by establishing (A) a fishery conservation zone within which the United States will assume exclusive fishery management authority over all fish, except highly migratory species, and (B) exclusive fishery management authority beyond such zone over such anadromous species and Continental Shelf fishery resources;

(2) to support and encourage the implementation and enforcement of international fishery agreements for the conservation and management of highly migratory species, and to encourage the negotiation and implementation of additional such agreements as necessary;

(3) to promote domestic commercial and recreational fishing under sound conservation and management principles;

(4) to provide for the preparation and implementation, in accordance with national standards, of fishery management plans which will achieve and maintain, on a continuing basis, the optimum yield from each fishery;

(5) to establish Regional Fishery Management Councils to prepare, monitor, and revise such plans under circumstances (A) which will enable the States, the fishing industry, consumer and environmental organizations, and other interested persons to participate in, and advise on, the establishment and administration of such plans, and (B) which take into account the social and economic needs of the States; and

(6) to encourage the development of fisheries which are currently underutilized or not utilized by United States fishermen, including bottom fish off Alaska.

(c) **POLICY.**—It is further declared to be the policy of the Congress in this Act—

(1) to maintain without change the existing territorial or other ocean jurisdiction of the United States for all purposes other than the conservation and management of fishery resources, as provided for in this Act;

(2) to authorize no impediment to, or interference with, recognized legitimate uses of the high seas, except as necessary for the conservation and management of fishery resources, as provided for in this Act;

(3) to assure that the national fishery conservation and management program utilizes, and is based upon, the best scientific information available; involves, and is responsive to the needs of interested and affected States and citizens; promotes efficiency; draws upon Federal, State, and academic capabilities in carrying out research, administration, management, and enforcement; and is workable and effective;

(4) to permit foreign fishing consistent with the provisions of this Act; and

(5) to support and encourage continued active United States efforts to obtain an internationally acceptable treaty, at the Third United Nations Conference on the Law of the Sea, which provides for effective conservation and management of fishery resources.

SEC. 3.² DEFINITIONS.

As used in this Act, unless the context otherwise requires—

(1) The term “anadromous species” means species of fish which spawn in fresh or estuarine waters of the United States and which migrate to ocean waters.

(2) The term “conservation and management” refers to all of the rules, regulations, conditions, methods, and other measures (A) which are required to rebuild, restore, or maintain, and which are useful in rebuilding, restoring, or maintaining, any fishery resource and the marine environment; and (B) which are designed to assure that—

(i) a supply of food and other products may be taken, and that recreational benefits may be obtained, on a continuing basis;

(ii) irreversible or long-term adverse effects on fishery resources and the marine environment are avoided; and

(iii) there will be a multiplicity of options available with respect to future uses of these resources.

(3) The term "Continental Shelf" means the seabed and subsoil of the submarine areas adjacent to the coast, but outside the area of the territorial sea, of the United States, to a depth of 200 meters or, beyond that limit, to where the depth of the superjacent waters admits of the exploitation of the natural resources of such areas.

(4) The term "Continental Shelf fishery resources" means the following:

COLEENTERATA

Bamboo Coral—*Acanella* spp.;
 Black Coral—*Antipathes* spp.;
 Gold Coral—*Callogorgia* spp.;
 Precious Red Coral—*Corallium* spp.;
 Bamboo Coral—*Keratoisis* spp.; and
 Gold Coral—*Parazoanthus* spp.

CRUSTACEA

Tanner Crab—*Chionoecetes tanneri*;
 Tanner Crab—*Chionoecetes opilio*;
 Tanner Crab—*Chionoecetes angulatus*;
 Tanner Crab—*Chionoecetes bairdi*;
 King Crab—*Paralithodes camtschatica*;
 King Crab—*Paralithodes platypus*;
 King Crab—*Paralithodes brevipes*;
 Lobster—*Homarus americanus*;
 Dungeness Crab—*Cancer magister*;
 California King Crab—*Paralithodes californiensis*;
 California King Crab—*Paralithodes rathbuni*;
 Golden King Crab—*Lithodes aequispinus*;
 Northern Stone Crab—*Lithodes maja*;
 Stone Crab—*Menippe mercenaria*; and
 Deep-sea Red Crab—*Geryon quinquedens*.

MOLLUSKS

Red Abalone—*Haliotis rufescens*;
 Pink Abalone—*Haliotis corrugata*;
 Japanese Abalone—*Haliotis kamtschatkana*;
 Queen Conch—*Strombus gigas*;
 Surf Clam—*Spisula solidissima*; and
 Ocean Quahog—*Artica islandica*.

SPONGES

Glove Sponge—*Hippiospongia canaliculata*;
 Sheepswool Sponge—*Hippiospongia lachne*;
 Grass Sponge—*Spongia graminea*; and
 Yellow Sponge—*Spongia barbera*.

If the Secretary determines, after consultation with the Secretary of State, that living organisms of any other sedentary species are, at the harvestable stage, either—

(A) immobile on or under the seabed, or

(B) unable to move except in constant physical contact with the seabed or subsoil,

of the Continental Shelf which appertains to the United States, and publishes notice of such determination in the Federal Register, such sedentary species shall be considered to be added to the foregoing list and included in such term for purposes of this Act.

(5) The term "Council" means any Regional Fishery Management Council established under section 302.

(6) The term "fish" means finfish, mollusks, crustaceans, and all other forms of marine animal and plant life other than marine mammals, birds, and highly migratory species.

(7) The term "fishery" means—

(A) one or more stocks of fish which can be treated as a unit for purposes of conservation and management and which are identified on the basis of geographical, scientific, technical, recreational, and economic characteristics; and

(B) any fishing for such stocks.

(8) The term "fishery conservation zone" means the fishery conservation zone established by section 101.

(9) The term "fishery resource" means any fishery, any stock of fish, any species of fish, and any habitat of fish.

(10) The term "fishing" means—

(A) the catching, taking, or harvesting of fish;

(B) the attempted catching, taking, or harvesting of fish;

(C) any other activity which can reasonably be expected to result in the catching, taking, or harvesting of fish; or

(D) any operations at sea in support of, or in preparation for, any activity described in subparagraphs (A) through (C).

Such term does not include any scientific research activity which is conducted by a scientific research vessel.

(11) The term "fishing vessel" means any vessel, boat, ship, or other craft which is used for, equipped to be used for, or of a type which is normally used for—

(A) fishing; or

(B) aiding or assisting one or more vessels at sea in the performance of any activity relating to fishing, including, but not limited to, preparation, supply, storage, refrigeration, transportation, or processing.

(12) The term "foreign fishing" means fishing by a vessel other than a vessel of the United States.

(13) The term "high seas" means all waters beyond the territorial sea of the United States and beyond any foreign nation's territorial sea, to the extent that such sea is recognized by the United States.

(14) The term "highly migratory species" means species of tuna which, in the course of their life cycle, spawn and migrate over great distances in waters of the ocean.

(15) The term "international fishery agreement" means any bilateral or multilateral treaty, convention, or agreement which relates to fishing and to which the United States is a party.

(16) The term "Marine Fisheries Commission" means the Atlantic States Marine Fisheries Commission, the Gulf States Marine Fisheries Commission, or the Pacific Marine Fisheries Commission.

(17) The term "national standards" means the national standards for fishery conservation and management set forth in section 301.

(18) The term "optimum", with respect to the yield from a fishery, means the amount of fish—

(A) which will provide the greatest overall benefit to the Nation, with particular reference to food production and recreational opportunities; and

(B) which is prescribed as such on the basis of the maximum sustainable yield from such fishery, as modified by any relevant economic, social, or ecological factor.

(19) The term "person" means any individual (whether or not a citizen or national of the United States), any corporation, partnership, association, or other entity (whether or not organized or existing under the laws of any State), and any Federal, State, local, or foreign government or any entity of any such government.

(20) The term "Secretary" means the Secretary of Commerce or his designee.

(21) The term "State" means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, American Samoa, the Virgin Islands, Guam, and any other Commonwealth, territory, or possession of the United States.

(22) The term "stock of fish" means a species, subspecies, geographical grouping, or other category of fish capable of management as a unit.

(23) The term "treaty" means any international fishery agreement which is a treaty within the meaning of section 2 of article II of the Constitution.

(24) The term "United States", when used in a geographical context, means all the States thereof.

(25) The term "vessel of the United States" means any vessel documented under the laws of the United States or registered under the laws of any State.

TITLE I—FISHERY MANAGEMENT AUTHORITY OF THE UNITED STATES

SEC. 101.³ FISHERY CONSERVATION ZONE.

There is established a zone contiguous to the territorial sea of the United States to be known as the fishery conservation zone. The inner boundary of the fishery conservation zone is a line coterminous with the seaward boundary of each of the coastal States, and the outer boundary of such zone is a line drawn in such a manner that each point on it is 200 nautical miles from the baseline from which the territorial sea is measured.

SEC. 102.⁴ EXCLUSIVE FISHERY MANAGEMENT AUTHORITY.

The United States shall exercise exclusive fishery management authority, in the manner provided for in this Act, over the following:

- (1) All fish within the fishery conservation zone.
- (2) All anadromous species throughout the migratory range of each such species beyond the fishery conservation zone; except that such management authority shall not extend to such species during the time they are found within any foreign nation's territorial sea or fishery conservation zone (or the equivalent), to the extent that such sea or zone is recognized by the United States.
- (3) All Continental Shelf fishery resources beyond the fishery conservation zone.

SEC. 103.⁵ HIGHLY MIGRATORY SPECIES.

The exclusive fishery management authority of the United States shall not include, nor shall it be construed to extend to, highly migratory species of fish.

SEC. 104.⁶ EFFECTIVE DATE.

This title shall take effect March 1, 1977.

TITLE II—FOREIGN FISHING AND INTERNATIONAL FISHING AGREEMENTS

SEC. 201.⁷ FOREIGN FISHING.

(a) IN GENERAL.—After February 28, 1977, no foreign fishing is authorized within the fishery conservation zone, or for anadromous species or Continental Shelf fishery resources beyond the fishery conservation zone, unless such foreign fishing—

- (1) is authorized under subsection (b) or (c);
- (2) is not prohibited by subsection (f); and
- (3) is conducted under, and in accordance with, a valid and applicable permit issued pursuant to section 204.

(b) EXISTING INTERNATIONAL FISHERY AGREEMENTS.—Foreign fishing described in subsection (a) may be conducted pursuant to an international fishery agreement (subject to the provisions of section 202(b) or (c)), if such agreement—

- (1) was in effect on the date of enactment of this Act; and

³ 16 U.S.C. 1811.

⁴ 16 U.S.C. 1812.

⁵ 16 U.S.C. 1813.

⁶ 16 U.S.C. 1811 note.

⁷ 16 U.S.C. 1821.

(2) has not expired, been renegotiated, or otherwise ceased to be of force and effect with respect to the United States.

(c) **GOVERNING INTERNATIONAL FISHERY AGREEMENTS.**—Foreign fishing described in subsection (a) may be conducted pursuant to an international fishery agreement (other than a treaty) which meets the requirements of this subsection if such agreement becomes effective after application of section 203. Any such international fishery agreement shall hereafter in this Act be referred to as a “governing international fishery agreement”. Each governing international fishery agreement shall acknowledge the exclusive fishery management authority of the United States, as set forth in this Act. It is the sense of the Congress that each such agreement shall include a binding commitment, on the part of such foreign nation and its fishing vessels, to comply with the following terms and conditions:

(1) The foreign nation, and the owner or operator of any fishing vessel fishing pursuant to such agreement, will abide by all regulations promulgated by the Secretary pursuant to this Act, including any regulations promulgated to implement any applicable fishery management plan or any preliminary fishery management plan.

(2) The foreign nation, and the owner or operator of any fishing vessel fishing pursuant to such agreement, will abide by the requirement that—

(A) any officer authorized to enforce the provisions of this Act (as provided for in section 311) be permitted—

(i) to board, and search or inspect, any such vessel at any time,

(ii) to make arrests and seizures provided for in section 311(b) whenever such officer has reasonable cause to believe, as a result of such a search or inspection, that any such vessel or any person has committed an act prohibited by section 307, and

(iii) to examine and make notations on the permit issued pursuant to section 204 for such vessel;

(B) the permit issued for any such vessel pursuant to section 204 be prominently displayed in the wheelhouse of such vessel;

(C) transponders, or such other appropriate position-fixing and identification equipment as the Secretary of the department in which the Coast Guard is operating determines to be appropriate, be installed and maintained in working order on each such vessel;

(D) duly authorized United States observers be permitted on board any such vessel and that the United States be reimbursed for the cost of such observers;

(E) any fees required under section 204(b)(10) be paid in advance;

(F) agents be appointed and maintained within the United States who are authorized to receive and respond to any legal process issued in the United States with respect to such owner or operator; and

(G) responsibility be assumed, in accordance with any requirements prescribed by the Secretary, for the reimburse-

ment of United States citizens for any loss of, or damage to, their fishing vessels, fishing gear, or catch which is caused by any fishing vessel of that nation;

and will abide by any other monitoring, compliance, or enforcement requirement related to fishery conservation and management which is included in such agreement.

(3) The foreign nation and the owners or operators of all of the fishing vessels of such nation shall not, in any year, exceed such nation's allocation of the total allowable level of foreign fishing, as determined under subsection (e).

(4) The foreign nation will—

(A) apply, pursuant to section 204, for any required permits;

(B) deliver promptly to the owner or operator of the appropriate fishing vessel any permit which is issued under that section for such vessel; and

(C) abide by, and take appropriate steps under its own laws to assure that all such owners and operators comply with, section 204(a) and the applicable conditions and restrictions established under section 204(b) (7).

(d) **TOTAL ALLOWABLE LEVEL OF FOREIGN FISHING.**—The total allowable level of foreign fishing, if any, with respect to any fishery subject to the exclusive fishery management authority of the United States, shall be that portion of the optimum yield of such fishery which will not be harvested by vessels of the United States, as determined in accordance with the provisions of this Act.

(e) **ALLOCATION OF ALLOWABLE LEVEL.**—The Secretary of State, in cooperation with the Secretary, shall determine the allocation among foreign nations of the total allowable level of foreign fishing which is permitted with respect to any fishery subject to the exclusive fishery management authority of the United States. In making any such determination, the Secretary of State and the Secretary shall consider—

(1) whether, and to what extent, the fishing vessels of such nations have traditionally engaged in fishing in such fishery;

(2) whether such nations have cooperated with the United States in, and made substantial contributions to, fishery research and the identification of fishery resources;

(3) whether such nations have cooperated with the United States in enforcement and with respect to the conservation and management of fishery resources; and

(4) such other matters as the Secretary of State, in cooperation with the Secretary, deems appropriate.

(f) **RECIPROCITY.**—Foreign fishing shall not be authorized for the fishing vessels of any foreign nation unless such nation satisfies the Secretary and the Secretary of State that such nation extends substantially the same fishing privileges to fishing vessels of the United States, if any, as the United States extends to foreign fishing vessels.

(g) **PRELIMINARY FISHERY MANAGEMENT PLANS.**—The Secretary, when notified by the Secretary of State that any foreign nation has submitted an application under section 204(b), shall prepare a preliminary fishery management plan for any fishery covered by such

application if the Secretary determines that no fishery management plan for that fishery will be prepared and implemented, pursuant to title III, before March 1, 1977. To the extent practicable, each such plan—

(1) shall contain a preliminary description of the fishery and a preliminary determination as to the optimum yield from such fishery and the total allowable level of foreign fishing with respect to such fishery;

(2) shall require each foreign fishing vessel engaged or wishing to engage in such fishery to obtain a permit from the Secretary;

(3) shall require the submission of pertinent data to the Secretary, with respect to such fishery, as described in section 303(a)(5); and

(4) may, to the extent necessary to prevent irreversible effects from overfishing, with respect to such fishery, contain conservation and management measures applicable to foreign fishing which—

(A) are determined to be necessary and appropriate for the conservation and management of such fishery,

(B) are consistent with the national standards, the other provisions of this Act, and other applicable law, and

(C) are described in section 303(b)(2), (3), (4), (5), and (7).

Each preliminary fishery management plan shall be in effect with respect to foreign fishing for which permits have been issued until a fishery management plan is prepared and implemented, pursuant to title III, with respect to such fishery. The Secretary may, in accordance with section 553 of title 5, United States Code, also prepare and promulgate interim regulations with respect to any such preliminary plan. Such regulations shall be in effect until regulations implementing the applicable fishery management plan are promulgated pursuant to section 305.

SEC. 202.⁹ INTERNATIONAL FISHERY AGREEMENTS.

(a) NEGOTIATIONS.—The Secretary of State—

(1) shall renegotiate treaties as provided for in subsection (b);

(2) shall negotiate governing international fishery agreements described in section 201(c);

(3) may negotiate boundary agreements as provided for in subsection (d);

(4) shall, upon the request of and in cooperation with the Secretary, initiate and conduct negotiations for the purpose of entering into international fishery agreements—

(A) which allow fishing vessels of the United States equitable access to fish over which foreign nations assert exclusive fishery management authority, and

(B) which provide for the conservation and management of anadromous species and highly migratory species; and

⁹ 16 U.S.C. 1822.

(5) may enter into such other negotiations, not prohibited by subsection (c), as may be necessary and appropriate to further the purposes, policy, and provisions of this Act.

(b) **TREATY RENEGOTIATION.**—The Secretary of State, in cooperation with the Secretary, shall initiate, promptly after the date of enactment of this Act, the renegotiation of any treaty which pertains to fishing within the fishery conservation zone (or within the area that will constitute such zone after February 28, 1977), or for anadromous species or Continental Shelf fishery resources beyond such zone or area, and which is in any manner inconsistent with the purposes, policy, or provisions of this Act, in order to conform such treaty to such purposes, policy, and provisions. It is the sense of Congress that the United States shall withdraw from any such treaty, in accordance with its provisions, if such treaty is not so renegotiated within a reasonable period of time after such date of enactment.

(c) **INTERNATIONAL FISHERY AGREEMENTS.**—No international fishery agreement (other than a treaty) which pertains to foreign fishing within the fishery conservation zone (or within the area that will constitute such zone after February 28, 1977), or for anadromous species or Continental Shelf fishery resources beyond such zone or area—

(1) which is in effect on June 1, 1976, may thereafter be renewed, extended, or amended; or

(2) may be entered into after May 31, 1976;

by the United States unless it is in accordance with the provisions of section 201(c).

(d) **BOUNDARY NEGOTIATIONS.**—The Secretary of State, in cooperation with the Secretary, may initiate and conduct negotiations with any adjacent or opposite foreign nation to establish the boundaries of the fishery conservation zone of the United States in relation to any such nation.

(e) **NONRECOGNITION.**—It is the sense of the Congress that the United States Government shall not recognize the claim of any foreign nation to a fishery conservation zone (or the equivalent) beyond such nation's territorial sea, to the extent that such sea is recognized by the United States, if such nation—

(1) fails to consider and take into account traditional fishing activity of fishing vessels of the United States;

(2) fails to recognize and accept that highly migratory species are to be managed by applicable international fishery agreements, whether or not such nation is a party to any such agreement; or

(3) imposes on fishing vessels of the United States any conditions or restrictions which are unrelated to fishery conservation and management.

SEC. 203.⁹ CONGRESSIONAL OVERSIGHT OF GOVERNING INTERNATIONAL FISHERY AGREEMENTS.

(a) **IN GENERAL.**—No governing international fishery agreement shall become effective with respect to the United States before the close of the first 60 calendar days of continuous session of the Congress after the date on which the President transmits to the House of Rep-

⁹ 16 U.S.C. 1823.

representatives and to the Senate a document setting forth the text of such governing international fishery agreement. A copy of the document shall be delivered to each House of Congress on the same day and shall be delivered to the Clerk of the House of Representatives, if the House is not in session, and to the Secretary of the Senate, if the Senate is not in session.

(b) **REFERRAL TO COMMITTEES.**—Any document described in subsection (a) shall be immediately referred in the House of Representatives to the Committee on Merchant Marine and Fisheries, and in the Senate to the Committees on Commerce and Foreign Relations.

(c) **COMPUTATION OF 60-DAY PERIOD.**—For purposes of subsection (a)—

(1) continuity of session is broken only by an adjournment of Congress sine die; and

(2) the days on which either House is not in session because of an adjournment of more than 3 days to a day certain are excluded in the computation of the 60-day period.

(d) **CONGRESSIONAL PROCEDURES.**—

(1) **RULES OF THE HOUSE OF REPRESENTATIVES AND SENATE.**—The provisions of this section are enacted by the Congress—

(A) as an exercise of the rulemaking power of the House of Representatives and the Senate, respectively, and they are deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House in the case of fishery agreement resolutions described in paragraph (2), and they supersede other rules only to the extent that they are inconsistent therewith; and

(B) with full recognition of the constitutional right of either House to change the rules (so far as they relate to the procedure of that House) at any time, and in the same manner and to the same extent as in the case of any other rule of that House.

(2) **DEFINITION.**—For purposes of this subsection, the term “fishery agreement resolution” refers to a joint resolution of either House of Congress—

(A) the effect of which is to prohibit the entering into force and effect of any governing international fishery agreement the text of which is transmitted to the Congress pursuant to subsection (a); and

(B) which is reported from the Committee on Merchant Marine and Fisheries of the House of Representatives or the Committee on Commerce or the Committee on Foreign Relations of the Senate, not later than 45 days after the date on which the document described in subsection (a) relating to that agreement is transmitted to the Congress.

(3) **PLACEMENT ON CALENDAR.**—Any fishery agreement resolution upon being reported shall immediately be placed on the appropriate calendar.

(4) **FLOOR CONSIDERATION IN THE HOUSE.**—

(A) A motion in the House of Representatives to proceed to the consideration of any fishery agreement resolution shall

be highly privileged and not debatable. An amendment to the motion shall not be in order, nor shall it be in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

(B) Debate in the House of Representatives on any fishery agreement resolution shall be limited to not more than 10 hours, which shall be divided equally between those favoring and those opposing the resolution. A motion further to limit debate shall not be debatable. It shall not be in order to move to recommit any fishery agreement resolution or to move to reconsider the vote by which any fishery agreement resolution is agreed to or disagreed to.

(C) Motions to postpone, made in the House of Representatives with respect to the consideration of any fishery agreement resolution, and motions to proceed to the consideration of other business, shall be decided without debate.

(D) All appeals from the decisions of the Chair relating to the application of the Rules of the House of Representatives to the procedure relating to any fishery agreement resolution shall be decided without debate.

(E) Except to the extent specifically provided in the preceding provisions of this subsection, consideration of any fishery agreement resolution shall be governed by the Rules of the House of Representatives applicable to other bills and resolutions in similar circumstances.

(5) FLOOR CONSIDERATION IN THE SENATE.—

(A) A motion in the Senate to proceed to the consideration of any fishery agreement resolution shall be privileged and not debatable. An amendment to the motion shall not be in order, nor shall it be in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

(B) Debate in the Senate on any fishery agreement resolution and on all debatable motions and appeals in connection therewith shall be limited to not more than 10 hours. The time shall be equally divided between, and controlled by, the majority leader and the minority leader or their designees.

(C) Debate in the Senate on any debatable motion or appeal in connection with any fishery agreement resolution shall be limited to not more than 1 hour, to be equally divided between, and controlled by, the mover of the motion or appeal and the manager of the resolution, except that if the manager of the resolution is in favor of any such motion or appeal, the time in opposition thereto shall be controlled by the minority leader or his designee. The majority leader and the minority leader, or either of them, may allot additional time to any Senator during the consideration of any debatable motion or appeal, from time under their control with respect to the applicable fishery agreement resolution.

(D) A motion in the Senate to further limit debate is not debatable. A motion to recommit any fishery agreement resolution is not in order.

SEC. 204.¹⁰ PERMITS FOR FOREIGN FISHING.

(a) **IN GENERAL.**—After February 28, 1977, no foreign fishing vessel shall engage in fishing within the fishery conservation zone, or for anadromous species or Continental Shelf fishery resources beyond such zone, unless such vessel has on board a valid permit issued under this section for such vessel.

(b) APPLICATIONS AND PERMITS UNDER GOVERNING INTERNATIONAL FISHERY AGREEMENTS.—

(1) **ELIGIBILITY.**—Each foreign nation with which the United States has entered into a governing international fishery agreement shall submit an application to the Secretary of State each year for a permit for each of its fishing vessels that wishes to engage in fishing described in subsection (a).

(2) **FORMS.**—The Secretary, in consultation with the Secretary of State and the Secretary of the department in which the Coast Guard is operating, shall prescribe the forms for permit applications submitted under this subsection and for permits issued pursuant to any such application.

(3) **CONTENTS.**—Any application made under this subsection shall specify—

(A) the name and official number or other identification of each fishing vessel for which a permit is sought, together with the name and address of the owner thereof;

(B) the tonnage, capacity, speed, processing equipment, type and quantity of fishing gear, and such other pertinent information with respect to characteristics of each such vessel as the Secretary may require;

(C) each fishery in which each such vessel wishes to fish;

(D) the amount of fish or tonnage of catch contemplated for each such vessel during the time such permit is in force; and

(E) the ocean area in which, and the season or period during which, such fishing will be conducted; and shall include any other pertinent information and material which the Secretary may require.

(4) **TRANSMITTAL FOR ACTION.**—Upon receipt of any application which complies with the requirements of paragraph (3), the Secretary of State shall publish such application in the Federal Register and shall promptly transmit—

(A) such application, together with his comments and recommendations thereon, to the Secretary;

(B) a copy of the application to each appropriate Council and to the Secretary of the department in which the Coast Guard is operating; and

(C) a copy of such material to the Committee on Merchant Marine and Fisheries of the House of Representatives and to the Committees on Commerce and Foreign Relations of the Senate.

(5) **ACTION BY COUNCIL.**—After receipt of an application transmitted under paragraph (4) (B), each appropriate Council shall

¹⁰ 16 U.S.C. 1824.

prepare and submit to the Secretary such written comments on the application as it deems appropriate. Such comments shall be submitted within 45 days after the date on which the application is received by the Council and may include recommendations with respect to approval of the application and, if approval is recommended, with respect to appropriate conditions and restrictions thereon. Any interested person may submit comments to such Council with respect to any such application. The Council shall consider any such comments in formulating its submission to the Secretary.

(6) **APPROVAL.**—After receipt of any application transmitted under paragraph (4) (A), the Secretary shall consult with the Secretary of State and, with respect to enforcement, with the Secretary of the department in which the Coast Guard is operating. The Secretary, after taking into consideration the views and recommendations of such Secretaries, and any comments submitted by any Council under paragraph (5), may approve the application, if he determines that the fishing described in the application will meet the requirements of this Act.

(7) **ESTABLISHMENT OF CONDITIONS AND RESTRICTIONS.**—The Secretary shall establish conditions and restrictions which shall be included in each permit issued pursuant to any application approved under paragraph (6) and which must be complied with by the owner or operator of the fishing vessel for which the permit is issued. Such conditions and restrictions shall include the following:

(A) All of the requirements of any applicable fishery management plan, or preliminary fishery management plan, and the regulations promulgated to implement any such plan.

(B) The requirement that no permit may be used by any vessel other than the fishing vessel for which it is issued.

(C) The requirements described in section 201(c) (1), (2), and (3).

(D) Any other condition and restriction related to fishery conservation and management which the Secretary prescribes as necessary and appropriate.

(8) **NOTICE OF APPROVAL.**—The Secretary shall promptly transmit a copy of each application approved under paragraph (6) and the conditions and restrictions established under paragraph (7) to—

(A) the Secretary of State for transmittal to the foreign nation involved;

(B) the Secretary of the department in which the Coast Guard is operating;

(C) any Council which has authority over any fishery specified in such application; and

(D) the Committee on Merchant Marine and Fisheries of the House of Representatives and the Committees on Commerce and Foreign Relations of the Senate.

(9) **DISAPPROVAL OF APPLICATIONS.**—If the Secretary does not approve any application submitted by a foreign nation under this subsection, he shall promptly inform the Secretary of State of

the disapproval and his reasons therefor. The Secretary of State shall notify such foreign nation of the disapproval and the reasons therefor. Such foreign nation, after taking into consideration the reasons for disapproval, may submit a revised application under this subsection.

(10) FEES.—Reasonable fees shall be paid to the Secretary by the owner or operator of any foreign fishing vessel for which a permit is issued pursuant to this subsection. The Secretary, in consultation with the Secretary of State, shall establish and publish a schedule of such fees, which shall apply nondiscriminatorily to each foreign nation. In determining the level of such fees, the Secretary may take into account the cost of carrying out the provisions of this Act with respect to foreign fishing, including, but not limited to, the cost of fishery conservation and management, fisheries research, administration, and enforcement.

(11) ISSUANCE OF PERMITS.—If a foreign nation notifies the Secretary of State of its acceptance of the conditions and restrictions established by the Secretary under paragraph (7), the Secretary of State shall promptly transmit such notification to the Secretary. Upon payment of the applicable fees established pursuant to paragraph (10), the Secretary shall thereupon issue to such foreign nation, through the Secretary of State, permits for the appropriate fishing vessels of that nation. Each permit shall contain a statement of all conditions and restrictions established under paragraph (7) which apply to the fishing vessel for which the permit is issued.

(12) SANCTIONS.—If any foreign fishing vessel for which a permit has been issued pursuant to this subsection has been used in the commission of any act prohibited by section 307 the Secretary may, or if any civil penalty imposed under section 308 or any criminal fine imposed under section 309 has not been paid and is overdue the Secretary shall—

(A) revoke such permit, with or without prejudice to the right of the foreign nation involved to obtain a permit for such vessel in any subsequent year;

(B) suspend such permit for the period of time deemed appropriate; or

(C) impose additional conditions and restrictions on the approved application of the foreign nation involved and on any permit issued under such application.

Any permit which is suspended under this paragraph for nonpayment of a civil penalty shall be reinstated by the Secretary upon the payment of such civil penalty together with interest thereon at the prevailing rate.

(c) REGISTRATION PERMITS.—The Secretary of State, in cooperation with the Secretary, shall issue annually a registration permit for each fishing vessel of a foreign nation which is a party to an international fishery agreement under which foreign fishing is authorized by section 201(b) and which wishes to engage in fishing described in subsection (a). Each such permit shall set forth the terms and conditions contained in the agreement that apply with respect to such fishing, and shall include the additional requirement that the owner

or operator of the fishing vessel for which the permit is issued shall prominently display such permit in the wheelhouse of such vessel and show it, upon request, to any officer authorized to enforce the provisions of this Act (as provided for in section 311). The Secretary of State, after consultation with the Secretary and the Secretary of the department in which the Coast Guard is operating, shall prescribe the form and manner in which applications for registration permits may be made, and the forms of such permits. The Secretary of State may establish, require the payment of, and collect fees for registration permits; except that the level of such fees shall not exceed the administrative costs incurred by him in issuing such permits.

SEC. 205.¹¹ IMPORT PROHIBITIONS.

(a) DETERMINATIONS BY SECRETARY OF STATE.—If the Secretary of State determines that—

(1) he has been unable, within a reasonable period of time, to conclude with any foreign nation an international fishery agreement allowing fishing vessels of the United States equitable access to fisheries over which that nation asserts exclusive fishery management authority, as recognized by the United States, in accordance with traditional fishing activities of such vessels, if any, and under terms not more restrictive than those established under sections 201 (c) and (d) and 204(b) (7) and (10), because such nation has (A) refused to commence negotiations, or (B) failed to negotiate in good faith;

(2) any foreign nation is not allowing fishing vessels of the United States to engage in fishing for highly migratory species in accordance with an applicable international fishery agreement, whether or not such nation is a party thereto;

(3) any foreign nation is not complying with its obligations under any existing international fishery agreement concerning fishing by fishing vessels of the United States in any fishery over which that nation asserts exclusive fishery management authority; or

(4) any fishing vessel of the United States, while fishing in waters beyond any foreign nation's territorial sea, to the extent that such sea is recognized by the United States, is seized by any foreign nation—

(A) in violation of an applicable international fishery agreement;

(B) without authorization under an agreement between the United States and such nation; or

(C) as a consequence of a claim of jurisdiction which is not recognized by the United States;

he shall certify such determination to the Secretary of the Treasury.

(b) PROHIBITIONS.—Upon receipt of any certification from the Secretary of State under subsection (a), the Secretary of the Treasury shall immediately take such action as may be necessary and appropriate to prohibit the importation into the United States—

(1) of all fish and fish products from the fishery involved, if any; and

¹¹ 16 U.S.C. 1825.

(2) upon recommendation of the Secretary of State, such other fish or fish products, from any fishery of the foreign nation concerned, which the Secretary of State finds to be appropriated to carry out the purposes of this section.

(c) **REMOVAL OF PROHIBITION.**—If the Secretary of State finds that the reasons for the imposition of any import prohibition under this section no longer prevail, the Secretary of State shall notify the Secretary of the Treasury, who shall promptly remove such import prohibition.

(d) **DEFINITIONS.**—As used in this section—

(1) The term “fish” includes any highly migratory species.

(2) The term “fish products” means any article which is produced from or composed of (in whole or in part) any fish.

SEC. 206.¹² TRANSITIONAL PROVISIONS.

(a) **DEFINITION.**—For purposes of this section, the term “governing international fishery agreement” does not include any governing international fishery agreement other than a governing international fishery agreement approved by the Congress pursuant to section 2 of the Fishery Conservation Zone Transition Act,¹³ or pursuant to any amendment to such section 2 if the effective date of such amendment is not later than February 28, 1977.

(b) **ACTION BY COUNCILS.**—Section 204(b) (5) shall not apply to any application submitted by a foreign nation pursuant to a governing international fishery agreement for permits authorizing fishing during 1977 by vessels of that nation within the fishery conservation zone or for anadromous species or Continental Shelf fishery resources beyond such zone, but each appropriate Council may prepare and submit comments to the Secretary on such application—

(1) if the application has been received by the Council on or before the date of the enactment of this section, within 7 days after such date; or

(2) if the application is received by the Council from the Secretary of State after such date of enactment, within 7 days after the date on which the Council receives the application.

The provisions of the Federal Advisory Committee Act shall not apply to the actions of any Council in preparing such comments.

(c) **PERMITS.**—Until May 1, 1977, the requirement in section 204(a) that foreign fishing vessels have on board a valid permit issued under section 204 shall not apply in the case of any foreign fishing vessel for which a permit is issued under an application to which subsection (b) applies. The failure of any such vessel to comply with such requirement before such date shall not be deemed to be a violation of section 307(1) (A).

(d) **PERMIT FEES.**—Until May 1, 1977, the requirement in section 204(b) (11), regarding the payment of applicable fees before foreign fishing permits are issued, may be waived by the Secretary with respect to permits to be issued under any application to which subsection (b)

¹² 16 U.S.C. 1826. Sec. 206 was added by Public Law 95-6 (91 Stat. 14).

¹³ For text, see page 415.

applies if the Secretary is satisfied that the foreign nation which made the application will pay the applicable fees before such date. Any permit issued under the waiver provided by this subsection shall expire on May 1, 1977, if the Secretary does not receive on or before such date the applicable fees for the permit.

TITLE IV—MISCELLANEOUS PROVISIONS

SEC. 401.¹⁴ EFFECT ON LAW OF THE SEA TREATY.

If the United States ratifies a comprehensive treaty, which includes provisions with respect to fishery conservation and management jurisdiction, resulting from any United Nations Conference on the Law of the Sea, the Secretary, after consultation with the Secretary of State, may promulgate any amendment to the regulations promulgated under this Act if such amendment is necessary and appropriate to conform such regulations to the provisions of such treaty, in anticipation of the date when such treaty shall come into force and effect for, or otherwise be applicable to, the United States.

SEC. 402. REPEALS.

(a) The Act of October 14, 1966 (16 U.S.C. 1091–1094), is repealed as of March 1, 1977.

(b) The Act of May 20, 1964 (16 U.S.C. 1081–1086), is repealed as of March 1, 1977.

SEC. 403. FISHERMEN'S PROTECTIVE ACT AMENDMENTS.

(a) AMENDMENTS.—The Act of August 27, 1954¹⁵ (22 U.S.C. 1972), is amended—

(1) by amending section 2 thereof to read as follows:

“SEC. 2. If—

“(1) any vessel of the United States is seized by a foreign country on the basis of claims in territorial waters or the high seas which are not recognized by the United States; or

“(2) any general claim of any foreign country to exclusive fishery management authority is recognized by the United States, and any vessel of the United States is seized by such foreign country on the basis of conditions and restrictions under such claim, if such conditions and restrictions—

“(A) are unrelated to fishery conservation and management,

“(B) fail to consider and take into account traditional fishing practices of vessels of the United States,

“(C) are greater or more onerous than the conditions and restrictions which the United States applies to foreign fishing vessels subject to the exclusive fishery management authority of the United States (as established in title I of the Fishery Conservation and Management Act of 1976), or

“(D) fail to allow fishing vessels of the United States equitable access to fish subject to such country's exclusive fishery management authority;

¹⁴ 16 U.S.C. 1881.

¹⁵ For text, see page 471.

and there is no dispute as to the material facts with respect to the location or activity of such vessel at the time of such seizure, the Secretary of State shall immediately take such steps as are necessary—

“(i) for the protection of such vessel and for the health and welfare of its crew;

“(ii) to secure the release of such vessel and its crew; and

“(iii) to determine the amount of any fine, license, fee, registration fee, or other direct charge reimbursable under section 3(a) of this Act.”; and

(2) by amending section 3(a) thereof by inserting immediately before the last sentence thereof the following new sentence: “For purposes of this section, the term ‘other direct charge’ means any levy, however characterized or computed (including, but not limited to, any computation based on the value of a vessel or the value of fish or other property on board a vessel), which is imposed in addition to any fine, license fee, or registration fee.”

(b) **EFFECTIVE DATE.**—The amendment made by subsection (a) (1) shall take effect March 1, 1977. The amendment made by subsection (a) (2) shall apply with respect to seizures of vessels of the United States occurring on or after December 31, 1974.

SEC. 404. MARINE MAMMAL PROTECTION ACT AMENDMENT.

(a) **AMENDMENT.**—Section 3(15) (B) of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1362(15) (B)) is amended by striking out “the fisheries zone established pursuant to the Act of October 14, 1966.” and inserting in lieu thereof “the waters included within a zone, contiguous to the territorial sea of the United States, of which the inner boundary is a line coterminous with the seaward boundary of each coastal State, and the outer boundary is a line drawn in such a manner that each point on it is 200 nautical miles from the baseline from which the territorial sea is measured.”.

(b) **EFFECTIVE DATE.**—The amendment made by subsection (a) shall take effect March 1, 1977.

SEC. 405. ATLANTIC TUNAS CONVENTION ACT AMENDMENT.

(a) **AMENDMENT.**—Section 2(4) of the Atlantic Tunas Convention Act of 1975 ¹⁶ (16 U.S.C. 971(4)) is amended by striking out “the fisheries zone established pursuant to the Act of October 14, 1966 (80 Stat. 908; 16 U.S.C. 1091–1094),” and inserting in lieu thereof “the waters included within a zone, contiguous to the territorial sea of the United States, of which the inner boundary is a line coterminous with the seaward boundary of each coastal State, and the outer boundary is a line drawn in such a manner that each point on it is 200 nautical miles from the baseline from which the territorial sea is measured.”.

(b) **EFFECTIVE DATE.**—The amendment made by subsection (a) shall take effect March 1, 1977.

¹⁶ For text, see page 447.

SEC. 406. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Secretary, for purposes of carrying out the provisions of this Act, not to exceed the following sums:

- (1) \$5,000,000 for the fiscal year ending June 30, 1976.
- (2) \$5,000,000 for the transitional fiscal quarter ending September 30, 1976.
- (3) \$25,000,000 for the fiscal year ending September 30, 1977.
- (4) \$30,000,000 for the fiscal year ending September 30, 1978.

b. Fishery Conservation Zone Transition Act as amended

Partial text of Public Law 95-6 [H.J. Res. 240], 91 Stat. 14, approved February 21, 1977 as amended by Public Law 95-8 [H.R. 3753], 91 Stat. 18, approved March 3, 1977; by Public Law 95-73 [H.R. 5638], 91 Stat. 283, approved July 26, 1977, and by Public Law 95-219 [H.R. 9794], 91 Stat. 1613, approved December 28, 1977.

JOINT RESOLUTION To give congressional approval to certain governing international fishery agreements negotiated in accordance with the Fishery Conservation and Management Act of 1976, and for other purposes.

Whereas the Government of the United States of America and the Governments of the People's Republic of Bulgaria, the Socialist Republic of Romania, the Republic of China, the German Democratic Republic, the Union of Soviet Socialist Republics, and the Polish People's Republic have signed governing international fishery agreements for the conservation, optimum utilization, and rational management of fisheries subject to the exclusive fishery management jurisdiction of the United States under the Fishery Conservation and Management Act of 1976 (Public Law 94-265)¹ (hereinafter referred to as the "Act"); and

Whereas the Act provides that after February 28, 1977, no foreign fishing is authorized within the fishery conservation zone, or for anadromous species or Continental Shelf fishery resources beyond the fishery conservation zone, unless (among other exceptions and requirements) such foreign fishing is authorized and conducted pursuant to a governing international fishery agreement; and

Whereas the Act also provides that no governing international fishery agreement shall become effective with respect to the United States before the close of the first 60 calendar days of continuous session of the Congress after the date on which the President transmits to the House of Representatives and to the Senate a document setting forth the text of such governing international agreement; and

Whereas the Act further provides that Congress may prohibit the entering into force and effect of any governing international fishery agreement by enactment of a joint resolution originating in either House of Congress during such 60-day period; and

Whereas, the sixty-day period will not elapse with respect to any governing international fishery agreement, referred to in the first clause of this preamble, before March 1, 1977, the date on which the fishery conservation zone of the United States takes effect; and

Whereas early congressional action on these governing international fishery agreements is necessary in order that fishing vessels of the foreign nations concerned may be permitted to fish in the fishery conservation zone after February 28, 1977, in compliance with such Act; and

¹ For text, see page 393.

Whereas these governing international fishery agreements substantially comply with the requirements relating to such agreements contained in section 201(c) of the Act: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That this joint resolution may be cited as the "Fishery Conservation Zone Transition Act".²

SEC. 2.³ CONGRESSIONAL APPROVAL OF CERTAIN GOVERNING INTERNATIONAL FISHERY AGREEMENTS.

Notwithstanding section 203 of the Fishery Conservation and Management Act of 1976, the governing international fishery agreement between the Government of the United States of America and—

(1) the Government of the People's Republic of Bulgaria Concerning Fisheries Off the Coasts of the United States, as contained in the message to Congress from the President of the United States dated January 14, 1974;

(2) the Government of the Socialist Republic of Romania Concerning Fisheries Off the Coasts of the United States, as contained in the message to Congress from the President of the United States dated January 10, 1977;

(3) the Government of the Republic of China Concerning Fisheries Off the Coasts of the United States, as contained in the message to Congress from the President of the United States dated January 10, 1977;

(4) the Government of the German Democratic Republic Concerning Fisheries Off the Coasts of the United States, as contained in the message to Congress from the President of the United States dated January 10, 1977;

(5) the Government of the Union of Soviet Socialist Republics Concerning Fisheries Off the Coasts of the United States, as contained in the message to Congress from the President of the United States dated January 10, 1977;

(6) the Government of the Polish People's Republic Concerning Fisheries Off the Coasts of the United States, as contained in the message to Congress from the President of the United States dated September 16, 1976;

(7)⁴ the European Economic Community Concerning Fisheries Off the Coasts of the United States, as contained in the message to Congress from the President of the United States dated February 21, 1977;

(8)⁴ the Government of Japan Concerning Fisheries Off the Coasts of the United States (for 1977), as contained in the message to Congress from the President of the United States dated February 21, 1977;

(9)⁴ the Government of the Republic of Korea Concerning Fisheries Off the Coasts of the United States, as contained in the message to Congress from the President of the United States dated February 21, 1977;

(10)⁴ the Government of Spain Concerning Fisheries Off the Coasts of the United States, as contained in the message to Con-

² 16 U.S.C. 1801 note.

³ 16 U.S.C. 1823 note.

⁴ Paragraphs (7), (8), (9), and (10) were added by Public Law 95-8 (91 Stat 18).

gress from the President of the United States dated February 21, 1977; and

(11) ⁵ the Government of Mexico Concerning Fisheries Off the Coasts of the United States, as contained in the message to Congress from the President of the United States dated October 7, 1977;

is hereby approved by the Congress as a governing international fishery agreement for purposes of the Fishery Conservation and Management Act of 1976. Each such agreement referred to in paragraphs (1) through (6) shall enter into force and effect with respect to the United States on the date of the enactment of this joint resolution, and each such agreement referred to in paragraphs (7) through (11) shall enter into force and effect with respect to the United States on February 27, 1977.⁶

* * * * *

SEC. 4. REPEAL OF NORTHWEST ATLANTIC FISHERIES ACT OF 1950.

The Northwest Atlantic Fisheries Act of 1950 (16 U.S.C. 981-991) is repealed as of March 1, 1977.

SEC. 5.⁷ RECIPROCAL FISHERIES AGREEMENT BETWEEN THE UNITED STATES AND CANADA.

(a) CONGRESSIONAL APPROVAL.—The Congress hereby approves the Reciprocal Fisheries Agreement between the Government of the United States and the Government of Canada (hereinafter in this section referred to as the “Agreement”), as contained in the message to Congress from the President of the United States dated February 28, 1977. The Agreement shall be in force and effect with respect to the United States during the period beginning March 1, 1977, and ending at the close of December 31, 1977.

(b) APPLICATION.—During the period when the Agreement is in force and effect with respect to the United States—

(1) vessels and nationals of Canada may fish within the fishery conservation zone, or for anadromous species and Continental Shelf fishery resources beyond such zone, but only pursuant to, and in accordance with, the provisions of the Agreement; and

(2) title II of the Fishery Conservation and Management Act of 1976 (relating to foreign fishing and international fishery agreements) and section 307 of such Act of 1976 (relating to prohibited acts) shall not apply with respect to fishing within the fishery conservation zone, or for anadromous species and Continental Shelf fishery resources beyond such zone, by vessels and nationals of Canada which is pursuant to, and in accordance with, the provisions of the Agreement.

(c) FISHING STATISTICS.—(1) Any person who—

(A) owns or operates any fishing vessel which—

(i) is a vessel of the United States, and

(ii) engages in fishing to which the Agreement applies; or

(B) directly or indirectly receives, or may receive, fish to which the Agreement applies in the course of a commercial activity

⁵ Paragraph (11) was added by Sec. 1 of Public Law 95-219 (91 Stat. 1613).

⁶ This sentence was amended and restated by Public Law 95-8 in order to reflect the additions of paragraphs (7)-(10); further amended by Public Law 95-219 to reflect the addition of paragraph (11).

⁷ 16 U.S.C. 1823 note. Sec. 5 was added by Public Law 95-73 (91 Stat. 283).

in quantities determined by the Secretary to be sufficient to assist in the carrying out of this paragraph, shall submit to the Secretary such statistics (including, but not limited to, catch data) regarding such fishing or such receipt of fish as are necessary to fulfill the obligations of the United States under article XIII of the Agreement. The Secretary, after consultation with the Secretary of State, shall issue such regulations as are necessary and appropriate to carry out the purposes of this paragraph. Section 303(d) of the Fishery Conservation and Management Act of 1976 (relating to the confidentiality of statistics) shall apply with respect to all statistics submitted under this paragraph.

(2) Any violation of paragraph (1), or of any regulation issued pursuant to paragraph (1), by any person shall be deemed to be an act prohibited by section 307 of the Fishery Conservation and Management Act of 1976. Any person who commits any such violation shall be liable to the United States for a civil penalty as provided for in section 308 of such Act of 1976. Sections 309 (relating to criminal offenses) and 310 (relating to civil forfeiture) of such Act of 1976 shall not apply with respect to any such violation.

(d) DEFINITIONS.— As used in this section, the terms “anadromous species”, “Continental Shelf fishery resources”, “fishing conservation zone”, “fishing”, “fishing vessel”, “Secretary”, and “vessel of the United States” shall have the same respective meanings as are given to such terms in section 3 of the Fishery Conservation and Management Act of 1976.

2. Oil Pollution

a. Oil Pollution Act, 1961, as amended

Public Law 87-167 [S. 2187], 75 Stat. 402; 33 U.S.C. 1001-1015, approved August 30, 1961, as amended by Public Law 89-551 [H.R. 8760], 80 Stat. 372, approved September 1, 1966; and by Public Law 93-119 [H.R. 5451], 87 Stat. 424, approved October 4, 1973

AN ACT To implement the provisions of the International Convention for the Prevention of the Pollution of the Sea by Oil, 1954¹

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act, to implement the provision of the International Convention for the Prevention of the Pollution of the Sea by Oil, 1954, as amended, may be cited as the "Oil Pollution Act, 1961, as amended".

SEC. 2. DEFINITIONS.—As used in this Act, unless the context otherwise requires—

(a) The term "convention" means the International Convention for the Prevention of the Pollution of the Sea by Oil, 1954, as amended;

(b) The term "discharge" in relation to oil or to an oily mixture means any discharge or escape howsoever caused;

(c)² The term "instantaneous rate of discharge of oil content" means the rate of discharge of oil in liters per hour at any instant divided by the speed of the ship in knots at the same instant;

(d) The term "heavy diesel oil" means diesel oil, other than those distillates of which more than 50 per centum, by volume distills at a temperature not exceeding three hundred and forty degrees centigrade when tested by American Society for Testing and Materials standard method D. 86/59;

(e) The term "mile" means a nautical mile of six thousand and eighty feet or one thousand eight hundred and fifty-two meters;

(f)³ The term "oil" means crude oil, fuel oil, heavy diesel oil, and lubricating oil, and "oily" shall be construed accordingly; an "oily mixture" means a mixture with any oil content;

(g) The term "person" means an individual, partnership, corporation, or association; and any owner, operator, agent, master, officer, or employee of a ship;

(h)⁴ the term "Secretary" means the Secretary of the department in which the Coast Guard is operating;

(i)⁵ The term "ships", subject to the exceptions provided in paragraph (1) of this subsection, means any seagoing vessel of any type whatsoever of American registry or nationality, including floating craft, whether self-propelled or towed by another vessel making a sea voyage; and "tanker", as a type included within the term "ship",

¹ 12 UST 2989; TIAS 4900; 327 UNTS 3. See boxnote on p. 391.

² Added by sec. 12(1)(C) of Public Law 93-119 (87 Stat. 424).

³ As amended and restated by sec. 1(2)(C) of Public Law 89-551 (80 Stat. 372).

⁴ As amended and restated by sec. 2(1)(F) of Public Law 93-119 (87 Stat. 424).

⁵ As amended and restated by Public Law 89-551 (80 Stat. 374).

means a ship in which the greater part of the cargo space is constructed or adapted for the carriage of liquid cargoes in bulk and which is not, for the time being, carrying a cargo other than oil in that part of its cargo space.

(1) The following categories of vessels are excepted from all provisions of the Act:

(i) tankers of under one hundred and fifty tons gross tonnage and other ships of under five hundred tons gross tonnage.

(ii) ships for the time being engaged in the whaling industry when actually employed on whaling operations.

(iii) ships for the time being navigating the Great Lakes of North America and their connecting and tributary waters as far east as the lower exit of Saint Lambert lock at Montreal in the Province of Quebec, Canada.

(iv) naval ships and ships for the time being used as naval auxiliaries.

(j)⁶ The term "from the nearest land" means from the baseline from which the territorial sea of the territory in question is established in accordance with the Geneva Convention on the Territorial Sea and the Contiguous Zone, 1958 except that, for the purpose of this Act "from the nearest land" off the northeastern coast of Australia means a line drawn from a point on the coast of Australia in latitude 11 degrees south, longitude 142 degrees 08 minutes east to a point in latitude 10 degrees 35 minutes south, longitude 141 degrees 55 minutes east—

thence to a point latitude 10 degrees 00 minutes south, longitude 142 degrees 00 minutes east;

thence to a point latitude 9 degrees 10 minutes south, longitude 143 degrees 52 minutes east;

thence to a point latitude 9 degrees 00 minutes south, longitude 144 degrees 30 minutes east;

thence to a point latitude 13 degrees 00 minutes south, longitude 141 degrees 00 minutes east;

thence to a point latitude 15 degrees 00 minutes south, longitude 146 degrees 00 minutes east;

thence to a point latitude 18 degrees 00 minutes south, longitude 147 degrees 00 minutes east;

thence to a point latitude 21 degrees 00 minutes south, longitude 153 degrees 00 minutes east;

thence to a point on the coast of Australia in latitude 24 degrees 42 minutes south, longitude 153 degrees 15 minutes east.

SEC. 3.⁷ Subject to the provisions of sections 4 and 5, the discharge of oil or oily mixture from a ship is prohibited unless—

(a) the ship is proceeding en route; and

(b) the instantaneous rate of discharge of oil content does not exceed sixty liters per mile, and

(c) (1) for a ship, other than a tanker—

(i) the oil content of the discharge is less than one hundred parts per one million parts of the mixture, and

⁶ Added by Public Law 89-551. As amended and restated by sec. 2(1)(G) of Public Law 93-119 (87 Stat. 424).

⁷ As amended and restated by sec. 2(2) of Public Law 93-119 (87 Stat. 425). Previously amended and restated by sec. 1(3) of Public Law 89-551.

(ii) the discharge is made as far as practicable from the nearest land;

(2) for a tanker, except discharges from machinery space bilges which shall be governed by the above provisions for ships other than tankers—

(i) the total quantity of oil discharged on a ballast voyage does not exceed one fifteen-thousandths of the total cargo-carrying capacity, and

(ii) the tanker is more than fifty miles from the nearest land.

SEC. 4.⁸ Section 3 shall not apply to—

(a) the discharge of oil or oily mixture from a ship for the purpose of securing the safety of a ship, preventing damage to a ship or cargo, or saving life at sea; or

(b) the escape of oil, or of oily mixture, resulting from damage to a ship or unavoidable leakage, if all reasonable precautions have been taken after the occurrence of the damage or discovery of the leakage for the purpose of preventing or minimizing the escape;

(c) the discharge of residue arising from the purification or clarification of fuel oil or lubricating oil: *Provided*, That such discharge is made as far from land as practicable.

SEC. 5.⁹ Section 3 does not apply to the discharge of tanker ballast from a cargo tank which, since the cargo was last carried therein, has been so cleaned that any effluent therefrom, if it were discharged from a stationary tanker into clean calm water on a clear day, would produce no visible traces of oil on the surface of the water.

SEC. 6.¹⁰ (a) Every tanker to which this Act applies and built in the United States and for which the building contract is placed on or after the effective date of this section shall be constructed in accordance with the provisions of annex C to the convention, relating to tank arrangement and limitation of tank size.

(b) Every tanker to which this Act applies and built in the United States and for which the building contract is placed, or in the absence of a building contract the keel of which is laid or which is at a similar state of construction, before the effective date of this section, shall, within two years after that date, comply with the provision of annex C of the convention if—

(1) the delivery of the tanker is after January 1, 1977; or

(2) the delivery of the tanker is not later than January 1, 1977, and the building contract is placed after January 1, 1972, or in cases where no building contract has previously been placed, the keel is laid or the tanker is at a similar stage of construction, after June 30, 1972.

(c) A tanker required under this section to be constructed in accordance with annex C to the convention and so constructed shall carry on board a certificate issued by the Secretary attesting to that compliance. A tanker which is not required to be constructed in accordance with annex C to the convention shall carry on board a certificate to that effect issued by the Secretary, or if a tanker does comply with annex C though not required to do so, she may carry on board a certifi-

⁸ As amended and restated by sec. 1(4) of Public Law 89-551.

⁹ As amended and restated by sec. 2(4) of Public Law 93-119 (87 Stat. 425). Previously amended and restated by Public Law 89-551.

¹⁰ As amended and restated by Public Law 93-119 (87 Stat. 426).

cate issued by the Secretary attesting to that compliance. Tankers under flag of the United States are prohibited from engaging in domestic or foreign trade without an appropriate certificate issued under this section.

(d) Certificates issued to foreign tankers pursuant to the convention by other nations party thereto shall be accepted by the Secretary as of the same force as certificates issued by him. If the Secretary has clear grounds for believing that a foreign tanker required under the convention to be constructed in accordance with annex C entering ports of the United States or using offshore terminals under United States control does not in fact comply with annex C, he may request the Secretary of State to seek consultation with the government with which the tanker is registered. If after consultation or otherwise, the Secretary is satisfied that such tanker does not comply with annex C, he may for this reason deny such tanker access to ports of the United States or to offshore terminals under United States control until such time as he is satisfied that the tanker has been brought into compliance.

(e) If the Secretary is satisfied that any other foreign tanker which, if registered in a country party to the convention, would be required to be constructed in accordance with annex C, does not in fact comply with the standards relating to tank arrangement and limitation of tank size of annex C, then he may deny such tanker access to ports of the United States or to offshore terminals under United States control.

SEC. 7.¹¹ (a) Any person who willfully discharges oil or oily mixture from a ship in violation of this Act or the regulations thereunder shall be fined not more than \$10,000 for each violation or imprisoned not more than one year, or both.

(b) In addition to any other penalty prescribed by law any person who willfully or negligently discharges oil or oily mixture from a ship in violation of this Act or any regulation thereunder shall be liable to a civil penalty of not more than \$10,000 for each violation, and any person who otherwise violates this Act or any regulation thereunder shall be liable to a civil penalty of not more than \$5,000 for each violation.

(c) A ship from which oil or oily mixture is discharged in violation of this Act or any regulation thereunder is liable for any pecuniary penalty under this section and may be proceeded against in the district court of any district in which the vessel may be found.

(d) The Secretary may assess any civil penalty incurred under this Act or any regulation thereunder and, in his discretion, remit, mitigate, or compromise any penalty. No penalty may be assessed unless the alleged violator shall have been given notice and the opportunity to be heard on the alleged violation. Upon any failure to pay a civil penalty assessed under this Act, the Secretary may request the Attorney General to institute a civil action to collect the penalty. In hearing such action, the district court shall have authority to review the violation and the assessment of the civil penalty *de novo*.

SEC. 8. The Coast Guard may, subject to the provisions of section 4450 of the Revised Statutes, as amended (46 U.S.C. 239), suspend or revoke a license issued to the master or other licensed officer of any ship found violating the provisions of this Act or the regulations issued pursuant thereto.

¹¹ As amended and restated by sec. 2(6) of Public Law 93-119 (87 Stat. 426).

SEC. 9.¹² (a) In the administration of sections 1-12 of this Act, the Secretary may utilize by agreement, with or without reimbursement, law enforcement officers or other personnel, facilities, or equipment of other Federal agencies or the States. For the better enforcement of the provisions of said sections, officers of the Coast Guard and other persons employed by or acting under the authority of the Secretary shall have power and authority and it shall be their duty to swear out process and to arrest and take into custody, with or without process, any person who may violate any of said provisions: *Provided*. That no person shall be arrested without process for a violation not committed in the presence of some one of the aforesaid officials: *And provided further*, That whenever any arrest is made under the provisions of said sections the person so arrested shall be brought forthwith before a commissioner, judge, or court of the United State for examination of the offenses alleged against him; and such commissioner, judge, or court shall proceed in respect thereto as authorized by law in cases of crimes against the United States. Representatives of the Secretary and of the Coast Guard of the United States may go on board and inspect any ship as may be necessary for enforcement of this Act.

(b) To implement article VII of the convention, ship fittings and equipment, and operating requirements thereof, shall be in accordance with regulations prescribed by the Secretary.

SEC. 10.¹³ (a) The Secretary shall have printed separate oil record books, containing instructions and spaces for inserting information in the form prescribed by the Convention, which shall be published in regulations prescribed by the Secretary.

(b) If subject to this Act, every ship using oil fuel and every tanker shall be provided, without charge, an oil record book which shall be carried on board. The provisions of section 140 of title 5, United States Code, shall not apply. The ownership of the booklet shall remain in the United States Government. This book shall be available for inspection as provided in this Act and for surrender to the United States Government pursuant to regulations of the Secretary.

(c) The oil record book shall be completed on each occasion, on a tank-to-tank basis, whenever any of the following operations take place in the ship:

(1) for tankers—

- (i) loading of oil cargo;
- (ii) transfer of oil cargo during voyage;
- (iii) discharge of oil cargo;
- (iv) ballasting of cargo tanks;
- (v) cleaning of cargo tanks;
- (vi) discharge of dirty ballast;
- (vii) discharge of water from slop tanks;
- (viii) disposal of residues;
- (ix) discharge overboard of bilge water containing oil which has accumulated in machinery spaces while in port, and

¹² Formerly sec. 8 in the original Act. Extensively amended by sec. 2(8) of Public Law 93-119 (87 Stat. 427).

¹³ As amended and restated by sec. 1(6) of Public Law 89-552 (80 Stat. 374). Public Law 93-119 at sec. 2(9) amended and restated sec. 10(c) and repealed section (f).

the routine discharge at sea of bilge water containing oil unless the latter has been entered in the appropriate logbook;

(2) for ships other than tankers—

- (i) ballasting or cleaning of bunker fuel tanks;
- (ii) discharge of dirty ballast or cleaning water from bunker fuel tanks;
- (iii) disposal of residues;
- (iv) discharge overboard of bilge water containing oil which has accumulated in machinery spaces while in port, and the routine discharge at sea of bilge water containing oil unless the latter has been entered in the appropriate logbook. In the event of such discharge or escape of oil or oily mixture as is referred to in section 4 of this Act, a statement shall be made in the oil record book of the circumstances of, and reason for, the discharge or escape.

(d) Each operation described in subsection 10(c) of the Act shall be fully recorded without delay in the oil record book so that all the entries in the book appropriate to that operation are completed. Each page of the book shall be signed by the officer or officers in charge of the operations concerned and, when the ship is manned, by the master of the ship.

(e) Oil record books shall be kept in such manner and for such length of time as set forth in the regulations prescribed by the Secretary.

SEC. 11.¹⁴ The Secretary may make regulations for the administration of sections 3, 4, 5, 7, 9, and 10.

SEC. 12. (a) The Secretary may make regulations empowering such persons as may be designated to go on board any ship to which the convention applies, while the ship is within the territorial jurisdiction of the United States, and to require production of any records required to be kept in accordance with the convention.

(b)¹⁵ Should evidence be obtained that a ship registered in another country party to the convention has discharged oil in violation of the convention but outside the territorial sea of the United States, such evidence should be forwarded to the State Department for action in accordance with article X of the convention.

SEC. 13. There is hereby authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.

SEC. 14. If a provision of this Act or the application of such provision to any person or circumstances shall be held invalid, the remainder of the Act and the application of such provision to persons or circumstances other than those to which it is held invalid shall not be affected thereby.

SEC. 15.¹⁵ Nothing in this Act or in regulations issued hereunder shall be construed to modify or amend the provisions of section 311 of the Federal Water Pollution Control Act, as amended or of section 89 of title 14, United States Code.

¹⁴ As amended and restated by sec. 1(7) of Public Law 89-551 and by sec. 2(10) of Public Law 93-119 (87 Stat. 428).

¹⁵ As amended by Public Law 93-119 (87 Stat. 428).

b. Intervention on the High Seas Act

Public Law 93-248 [S. 1070], 88 Stat. 8; 33 U.S.C. 1471-1487, approved February 5, 1974

AN ACT To implement the International Convention Relating to Intervention on the High Seas in Cases of Oil Pollution Casualties, 1969.¹

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Intervention on the High Seas Act".

SEC. 2. As used in this Act—

- (1) "ship" means—
 - (A) any seagoing vessel of any type whatsoever, and
 - (B) any floating craft, except an installation or device engaged in the exploration and exploitation of the resources of the seabed and the ocean floor and the subsoil thereof;
- (2) "oil" means crude oil, fuel oil, diesel oil, and lubricating oil;
- (3) "convention" means the International Convention Relating to Intervention on the High Seas in Cases of Oil Pollution Casualties, 1969;
- (4) "Secretary" means the Secretary of the department in which the Coast Guard is operating; and
- (5) "United States" means the States, the District of Columbia, the Commonwealth of Puerto Rico, the Canal Zone, Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands.

SEC. 3. Whenever a ship collision, stranding, or other incident of navigation or other occurrence on board a ship or external to it resulting in material damage or imminent threat of material damage to the ship or her cargo creates, as determined by the Secretary, a grave and imminent danger to the coastline or related interests of the United States from pollution or threat of pollution of the sea by oil which may reasonably be expected to result in major harmful consequences, the Secretary may, except as provided for in section 10, without liability for any damage to the owners or operators of the ship, to her cargo or crew, or to underwriters or other parties interested therein, take measures on the high seas, in accordance with the provisions of the Convention and this Act, to prevent, mitigate, or eliminate that danger.

SEC. 4. In determining whether there is grave and imminent danger of major harmful consequences to the coastline or related interests of the United States, the Secretary shall consider the interests of the United States directly threatened or affected including but not limited to, fish, shellfish, and other living marine resources, wildlife, coastal zone, and estuarine activities, and public and private shorelines and beaches.

¹ See boxnote p. 391.

SEC. 5. Upon a determination under section 3 of this Act of a grave and imminent danger to the coastline or related interests of the United States, the Secretary may—

- (1) coordinate and direct all public and private efforts directed at the removal or elimination of the threatened pollution damage;
- (2) directly or indirectly undertake the whole or any part of any salvage or other action he could require or direct under subsection (1) of this section; and
- (3) remove, and, if necessary, destroy the ship and cargo which is the source of the danger.

SEC. 6. Before taking any measure under section 5 of this Act, the Secretary shall—

(1) consult, through the Secretary of State, with other countries affected by the marine casualty, and particularly with the flag country of any ship involved;

(2) notify without delay the Administrator of the Environmental Protection Agency and any other persons known to the Secretary, or of whom he later becomes aware, who have interests which can reasonably be expected to be affected by any proposed measures; and

(3) consider any views submitted in response to the consultation or notification required by subsections (1) and (2) of this section.

SEC. 7. In cases of extreme urgency requiring measures to be taken immediately, the Secretary may take those measures rendered necessary by the urgency of the situation without the prior consultation or notification as required by section 6 of this Act or without the continuation of consultations already begun.

SEC. 8. (a) Measures directed or conducted under this Act shall be proportionate to the damage, actual or threatened, to the coastline or related interests of the United States and may not go beyond what is reasonably necessary to prevent, mitigate, or eliminate that damage.

(b) In considering whether measures are proportionate to the damage the Secretary shall, among other things, consider—

(1) the extent and probability of imminent damage if those measures are not taken;

(2) the likelihood of effectiveness of those measures; and

(3) the extent of the damage which may be caused by those measures.

SEC. 9. In the direction and conduct of measures under this Act the Secretary shall use his best endeavors to —

(1) assure the avoidance of risk to human life;

(2) render all possible aid to distressed persons, including facilitating repatriation of ships' crews; and

(3) not unnecessarily interfere with rights and interests of others, including the flag state of any ship involved, other foreign states threatened by damage, and persons otherwise concerned.

SEC. 10. (a) The United States shall be obliged to pay compensation to the extent of the damage caused by measures which exceed those reasonably necessary to achieve the end mentioned in section 3.

(b) Actions against the United States seeking compensation for any excessive measures may be brought in the United States Court

of Claims, in any district court of the United States, and in those courts enumerated in section 460 of title 28, United States Code. For purposes of this Act, American Samoa shall be included within the judicial district of the District Court of the United States for the District of Hawaii, and the Trust Territory of the Pacific Islands shall be included within the judicial districts of both the District Court of the United States for the District of Hawaii and the District Court of Guam.

SEC. 11. The Secretary of State shall notify without delay foreign states concerned, the Secretary-General of the Inter-Governmental Maritime Consultative Organization, and persons affected by measures taken under this Act.

SEC. 12. (a) Any person who—

(1) willfully violates a provision of this Act or a regulation issued thereunder; or

(2) willfully refuses or fails to comply with any lawful order or direction given pursuant to this Act; or

(3) willfully obstructs any person who is acting in compliance with an order or direction under this Act, shall be fined not more than \$10,000 or imprisoned not more than one year, or both.

(b) In a criminal proceeding for an offense under paragraph (1) or (2) of subsection (a) of this section it shall be a defense for the accused to prove that he used all due diligence to comply with any order or direction or that he had reasonable cause to believe that compliance would have resulted in serious risk to human life.

SEC. 13. (a) The Secretary, in consultation with the Secretary of State and the Administrator of the Environmental Protection Agency, may nominate individuals to the list of experts provided for in article III of the convention.

(b) The Secretary of State, in consultation with the Secretary, shall designate or nominate, as appropriate and necessary, the negotiators, conciliators, or arbitrators provided for by the convention and the annexes thereto.

SEC. 14. No measures may be taken under authority of this Act against any warship or other ship owned or operated by a country and used, for the time being, only on Government noncommercial service.

SEC. 15. This Act shall be interpreted and administered in a manner consistent with the convention and other international law. Except as specifically provided, nothing in this Act may be interpreted to prejudice any otherwise applicable right, duty, privilege, or immunity or deprive any country or person of any remedy otherwise applicable.

SEC. 16. The Secretary may issue reasonable rules and regulations which he considers appropriate and necessary for the effective implementation of this Act.

SEC. 17. The revolving fund established under section 311(k) of the Federal Water Pollution Control Act shall be available to the Secretary for Federal actions and activities under section 5 of this Act.

SEC. 18. This Act shall be effective upon the date of enactment, or upon the date the convention becomes effective as to the United States, whichever is later.

c. Deepwater Port Act of 1974

Partial text of Public Law 93-627 [H.R. 10701], 88 Stat. 2126; 33 U.S.C. 1501-1524, approved January 3, 1975

AN ACT To regulate commerce, promote efficiency in transportation, and protect the environment, by establishing procedures for the location, construction, and operation of deepwater ports off the coasts of the United States, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Deepwater Port Act of 1974".

DECLARATION OF POLICY

SEC. 2. (a) It is declared to be the purposes of the Congress in this Act to—

(1) authorize and regulate the location, ownership, construction, and operation of deepwater ports in waters beyond the territorial limits of the United States;

(2) provide for the protection of the marine and coastal environment to prevent or minimize any adverse impact which might occur as a consequence of the development of such ports;

(3) protect the interests of the United States and those of adjacent coastal States in the location, construction, and operation of deepwater ports; and

(4) protect the rights and responsibilities of States and communities to regulate growth, determine land use, and otherwise protect the environment in accordance with law.

(b) The Congress declares that nothing in this Act shall be construed to affect the legal status of the high seas, the superjacent airspace, or the seabed and subsoil, including the Continental Shelf.

DEFINITIONS

SEC. 3. As used in this Act, unless the context otherwise requires, the term—

(1) "adjacent coastal State" means any coastal State which (A) would be directly connected by pipeline to a deepwater port, as proposed in an application; (B) would be located within 15 miles of any such proposed deepwater port; or (C) is designated by the Secretary in accordance with section 9(a) (2) of this Act;

(2) "affiliate" means any entity owned or controlled by, any person who owns or controls, or any entity which is under common ownership or control with an applicant, licensee, or any person required to be disclosed pursuant to section 5(c) (2) (A) or (B);

(3) "antitrust laws" includes the Act of July 2, 1890, as amended, the Act of October 15, 1914, as amended, the Federal Trade Commission Act (15 U.S.C. 41 et seq., and sections 73 and 74 of the Act of August 27, 1894, as amended;

(4) "application" means any application submitted under this Act (A) for a license for the ownership, construction, and operation of a deepwater port; (B) for transfer of any such licensee; or (C) for any substantial change in any of the conditions and provisions of any such license;

(5) "citizen of the United States" means any person who is a United States citizen by law, birth, or naturalization, any State, any agency of a State or a group of States, or any corporation, partnership, or association organized under the laws of any State which has as its president or other executive officer and as its chairman of the board of directors, or holder of a similar office, a person who is a United States citizen by law, birth or naturalization and which has no more of its directors who are not United States citizens by law, birth or naturalization than constitute a minority of the number required for a quorum necessary to conduct the business of the board;

(6) "coastal environment" means the navigable waters (including the lands therein and thereunder) and the adjacent shorelines including waters therein and thereunder). The term includes transitional and intertidal areas, bays, lagoons, salt marshes, estuaries, and beaches; the fish, wildlife and other living resources thereof; and the recreational and scenic values of such lands, waters and resources;

(7) "coastal State" means any State of the United States in or bordering on the Atlantic, Pacific, or Arctic Oceans, or the Gulf of Mexico;

(8) "construction" means the supervising, inspection, actual building, and all other activities incidental to the building, repairing, or expanding of a deepwater port or any of its components, including, but not limited to, pile driving and bulkheading, and alterations, modifications, or additions to the deepwater port;

(9) "control" means the power, directly or indirectly, to determine the policy, business practices, or decisionmaking process of another person, whether by stock or other ownership interest, by representation on a board of directors or similar body, by contract or other agreement with stockholders or others, or otherwise;

(10) "deepwater port" means any fixed or floating manmade structures other than a vessel, or any group of such structures, located beyond the territorial sea and off the coast of the United States and which are used or intended for use as a port or terminal for the loading or unloading and further handling of oil for transportation to any State, except as otherwise provided in section 23. The term includes all associated components and equipment, including pipelines, pumping stations, service platforms, mooring buoys, and similar appurtenances to the extent they are located seaward of the high water mark. A deepwater port shall be considered a "new source" for purposes of the Clean Air Act, as amended, and the Federal Water Pollution Control Act, as amended;

(11) "Governor" means the Governor of a State or the person designated by State law to exercise the powers granted to the Governor pursuant to this Act;

(12) "licensee" means a citizen of the United States holding a valid license for the ownership, construction, and operation of a deepwater port that was issued, transferred, or renewed pursuant to this Act;

(13) "marine environment" includes the costal environment, waters of the contiguous zone, and waters of the high seas; the fish, wildlife, and other living resources of such waters; and the recreational and scenic values of such waters and resources;

(14) "oil" means petroleum, crude oil, and any substance refined from petroleum or crude oil;

(15) "person" includes an individual, a public or private corporation, a partnership or other association, or a government entity;

(16) "safety zone" means the safety zone established around a deepwater port as determined by the Secretary in accordance with section 10(d) of this Act;

(17) "Secretary" means the Secretary of Transportation;

(18) "State" includes each of the States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and the territories and possessions of the United States; and

(19) "vessel" means every description of watercraft or other artificial contrivance used as a means of transportation on or through the water.

* * * * *

MARINE ENVIRONMENTAL PROTECTION AND NAVIGATIONAL SAFETY

SEC. 10. (a) Subject to recognized principles of international law, the Secretary shall prescribe by regulation and enforce procedures with respect to any deepwater port, including, but not limited to, rules governing vessel movement, loading and unloading procedures, designation and marking of anchorage areas, maintenance, law enforcement, and the equipment, training, and maintenance required (A) to prevent pollution of the marine environment, (B) to clean up any pollutants which may be discharged, and (C) to otherwise prevent or minimize any adverse impact from the construction and operation of such deepwater port.

(b) The Secretary shall issue and enforce regulations with respect to lights and other warning devices, safety equipment, and other matters relating to the promotion of safety of life and property in any deepwater port and the waters adjacent thereto.

(c) The Secretary shall mark, for the protection of navigation, any component of a deepwater port whenever the licensee fails to mark such component in accordance with applicable regulations. The licensee shall pay the cost of such marking.

(d)(1) Subject to recognized principles of international law and after consultation with the Secretary of the Interior, the Secretary of Commerce, the Secretary of State, and the Secretary of Defense, the Secretary shall designate a zone of appropriate size around and including any deepwater port for the purpose of navigational safety. In such zone, no installations, structures, or uses will be permitted

that are incompatible with the operation of the deepwater port. The Secretary shall by regulation define permitted activities within such zone. The Secretary shall, not later than 30 days after publication of notice pursuant to section 5(c) of this Act, designate such safety zone with respect to any proposed deepwater port.

(2) In addition to any other regulations, the Secretary is authorized, in accordance with this subsection, to establish a safety zone to be effective during the period of construction of a deepwater port and to issue rules and regulations relating thereto.

INTERNATIONAL AGREEMENTS

SEC. 11. The Secretary of State, in consultation with the Secretary, shall seek effective international action and cooperation in support of the policy and purposes of this Act and may formulate, present, or support specific proposals in the United Nations and other competent international organizations for the development of appropriate international rules and regulations relative to the construction, ownership, and operation of deepwater ports, with particular regard for measures that assure protection of such facilities as well as the promotion of navigational safety in the vicinity thereof.

* * * * *

RELATIONSHIP TO OTHER LAWS

SEC. 19. (a) (1) The Constitution, laws, and treaties of the United States shall apply to a deepwater port licensed under this Act and to activities connected, associated, or potentially interfering with the use or operation of any such port, in the same manner as if such port were an area of exclusive Federal jurisdiction located within a State. Nothing in this Act shall be construed to relieve, exempt, or immunize any person from any other requirement imposed by Federal law, regulation, or treaty. Deepwater ports licensed under this Act do not possess the status of islands and have no territorial seas of their own.

(2) Except as otherwise provided by this Act, nothing in this Act shall in any way alter the responsibilities and authorities of a State or the United States within the territorial seas of the United States.

(b) The law of the nearest adjacent coastal State, now in effect or hereafter adopted, amended, or repealed, is declared to be the law of the United States, and shall apply to any deepwater port licensed pursuant to this Act, to the extent applicable and not inconsistent with any provision or regulation under this Act or other Federal laws and regulations now in effect or hereafter adopted, amended, or repealed. All such applicable laws shall be administered and enforced by the appropriate officers and courts of the United States. For purposes of this subsection, the nearest adjacent coastal State shall be that State whose seaward boundaries, if extended beyond 3 miles, would encompass the site of the deepwater port.

(c) Except in a situation involving force majeure, a license of a deepwater port shall not permit a vessel, registered in or flying the flag of a foreign state, to call at, or otherwise utilize a deepwater port licensed under this Act unless (1) the foreign state involved, by specific agreement with the United States, has agreed to recognize the

jurisdiction of the United States over the vessel and its personnel, in accordance with the provisions of this Act, while the vessel is located within the safety zone, and (2) the vessel owner or operator has designated an agent in the United States for receipt of service of process in the event of any claim or legal proceeding resulting from activities of the vessel or its personnel while located within such a safety zone.

(d) The customs laws administered by the Secretary of the Treasury shall not apply to any deepwater port licensed under this Act, but all foreign articles to be used in the construction of any such deepwater port, including any component thereof, shall first be made subject to all applicable duties and taxes which would be imposed upon or by reason of their importation if they were imported for consumption in the United States. Duties and taxes shall be paid thereon in accordance with laws applicable to merchandise imported into the customs territory of the United States.

(e) The United States district courts shall have original jurisdiction of cases and controversies arising out of or in connection with the construction and operation of deepwater ports, and proceedings with respect to any such case or controversy may be instituted in the judicial district in which any defendant resides or may be found, or in the judicial district of the adjacent coastal State nearest the place where the cause of action arose.

(f) Section 4(a)(2) of the Act of August 7, 1953 (67 Stat. 462) is amended by deleting the words "as of the effective date of this Act" in the first sentence thereof and inserting in lieu thereof the words ", now in effect or hereafter adopted, amended, or repealed".

ANNUAL REPORT BY SECRETARY TO CONGRESS

SEC. 20. Within 6 months after the end of each fiscal year, the Secretary shall submit to the President of the Senate and the Speaker of the House of Representatives (1) a report on the administration of the Deepwater Port Act during such fiscal year, including all deepwater port development activities; (2) a summary of management, supervision, and enforcement activities; and (3) recommendations to the Congress for such additional legislative authority as may be necessary to improve the management and safety of deepwater port development and for resolution of jurisdictional conflicts or ambiguities.

* * * * *

NEGOTIATIONS WITH CANADA AND MEXICO

SEC. 22. The President of the United States is authorized and requested to enter into negotiations with the Governments of Canada and Mexico to determine:

(1) the need for intergovernmental understandings, agreements, or treaties to protect the interests of the people of Canada, Mexico, and the United States and of any party or parties involved with the construction or operation of deepwater ports; and

(2) the desirability of undertaking joint studies and investigations designed to insure protection of the environment and to eliminate any legal and regulatory uncertainty, to assure that the

interests of the people of Canada, Mexico, and the United States are adequately met.

The President shall report to the Congress the actions taken, the progress achieved, the areas of disagreement, and the matters about which more information is needed, together with his recommendations for further action.

* * * * *

3. North Pacific Fisheries Act of 1954, as amended

Public Law 83-579 [S. 3713], 68 Stat. 698; 16 U.S.C. 1022-1032, approved August 12, 1954, as amended by Public Law 85-114 [S. 2212], 71 Stat. 310, approved July 24, 1957; and by Public Law 92-471 [H.R. 9501], 86 Stat. 784, approved October 9, 1972

AN ACT To give effect to the International Convention for the High Seas Fisheries of the North Pacific Ocean, signed at Tokyo, May 9, 1952,¹ and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "North Pacific Fisheries Act of 1954".

SEC. 2. As used in this Act, the term—

(a) "Convention" means the International Convention for the High Seas Fisheries of the North Pacific Ocean with a protocol relating thereto signed at Tokyo, May 9, 1952;

(b) "Commission" means the International North Pacific Fisheries Commission provided for by article II of the Convention;

(c) "United States Section" means the United States Commissioners to the Commission;

(d) "Convention area" means all waters, other than territorial waters, of the North Pacific Ocean which for the purposes of this Act shall include the adjacent seas;

(e) "Fishing vessel" means any vessel engaged in catching fish or processing or transporting fish loaded on the high seas, or any vessel outfitted for such activities.

SEC. 3.² (a) The United States shall be represented on the Commission by not more than four United States Commissioners to be appointed by the President and to serve at his pleasure; except that after January 1, 1973, (1) each United States Commissioner shall be appointed for a term of office of not to exceed four years, but is eligible for reappointment; and (2) any United States Commissioner may be appointed for a lesser term if necessary to insure that the term of office of not more than one Commissioner will expire in any one year. Of such Commissioners, who shall receive no compensation for their services as Commissioners, one shall be an official of the United States Government, and each of the others shall be a person residing in a State, the residents of which maintain a substantial fishery in the Convention area.

(b) The Secretary of State, in consultation with the Secretary of Commerce, may designate from time to time Alternate United States Commissioners to the Commission. An alternate United States Commissioner may exercise, at any meeting of the Commission or of the United States Section or of the Advisory Committee established pur-

¹ UST 380; TIAS 2786; 205 UNTS 65. See boxnote on p. 391.

² As amended and restated by sec. 108 of Public Law 92-471 (86 Stat. 784).

suant to section 4, all powers and duties of a United States Commissioner in the absence of a duly designated Commissioner for whatever reason. The number of such Alternate United States Commissioners that may be designated for any such meeting shall be limited to the number of authorized United States Commissioners that will not be present.

SEC. 4. (a) The United States Section shall appoint an advisory committee composed of not less than five nor more than twenty members and shall fix the terms of office thereof, such members to be selected both from the various groups participating in the fisheries covered by the Convention and from the fishery agencies of the States or Territories, the residents of which maintain a substantial fishery in the Convention area.

(b) Any or all members of the advisory committee shall ³ attend all sessions of the Commission except executive sessions.

(c) The advisory committee shall be invited to all nonexecutive meetings of the United States Section and at such meetings shall be granted opportunity to examine and to be heard on all proposed programs of study and investigation, reports, and recommendations of the United States Section.

(d) The members of the advisory committee shall receive no compensation for their services as such members. On approval by the United States Section, not more than three members of the committee, designated by the committee, may be paid for transportation expenses and per diem incident to attendance at meetings of the Commission or of the United States Section.

SEC. 5. [Repealed by Public Law 92-471 (86 Stat. 786).]

SEC. 6. The President is authorized to (a) accept or reject, on behalf of the United States, recommendations made by the Commission in accordance with the provisions of article III, section 1 of the Convention, and recommendations made by the Commission in pursuance of the provisions of the Protocol to the Convention; and (b) act for the United States in the selection of persons by the contracting parties to compose the special committee provided by the Protocol to the Convention.

SEC. 7.⁴ The Secretary of Commerce is authorized and directed to administer and enforce all the provisions of the Convention, this Act, and regulations issued pursuant thereto, except to the extent otherwise provided for in this Act. In carrying out such functions he is authorized and directed to adopt such regulations as may be necessary to carry out the purposes and objectives of the Convention and this Act, and, with the concurrence of the Secretary of State he may cooperate with the duly authorized officials of the government of any party to the Convention. He shall adopt such regulations on consultation with the United States Section and they shall apply only to stocks of fish in the Convention area north of the parallel of north latitude of 48 degrees and 30 minutes. No such regulations shall apply in the Convention area south of the 49th parallel of north latitude with respect to sockeye salmon (*Oncorhynchus nerka*) or pink salmon (*Oncorhynchus gorbuscha*).

³ Public Law 92-471 deleted the word "may" and inserted "shall".

⁴ Added by sec. 101 of Public Law 92-471 (86 Stat. 784). The former section was renumbered sec. 8.

SEC. 8. Any agency of the Federal Government is authorized, upon request of the Commission, to cooperate in the conduct of scientific and other programs, and to furnish, on a reimbursable basis, facilities and personnel for the purpose of assisting the Commission in carrying out its duties under the Convention. Such agency may accept reimbursement from the Commission.

SEC. 9. (a) ⁵ Enforcement activities under the provisions of this Act relating to vessels engaged in fishing and subject to the jurisdiction of the United States shall be primarily the responsibility of the Secretary of the Department in which the Coast Guard is operating, in cooperation with the Secretary of Commerce. The Secretary of the Department in which the Coast Guard is operating, with the concurrence of the Secretary of Commerce and the Secretary of State, is authorized to adopt such regulations as may be necessary to provide for procedures and methods of enforcement pursuant to articles 9 and 10 of the Convention.

(b) The provisions of the Convention and this Act relating to abstention from fishing in certain areas by the nationals and vessels of one or more of the contracting parties shall be enforced by the Secretary of the Department in which the Coast Guard is operating, in cooperation with the Secretary of Commerce and the Secretary of the Treasury.

(c) For such purposes any Coast Guard officer, any officer of the Department of Commerce, or any other person authorized to enforce the provisions of the Convention and this Act referred to in subsection (b) of this section may go on board any fishing vessel of Canada or Japan found in waters in which Canada or Japan has agreed by or under the Convention to abstain from exploitation of one or more stocks of fish, and, when he has reasonable cause to believe that such vessel is engaging in operations in violation of the provisions of the Convention, may, without warrant or other process, inspect the equipment, books, documents, and other articles on such vessel and question the persons on board, and for these purposes may hail and stop such vessel, and use all necessary force to compel compliance.

(d) Whenever any such officer has reasonable cause to believe that any person on any fishing vessel of Canada or Japan is violating, or immediately prior to the boarding of such vessel was violating, the provisions of the Convention referred to in subsection (b) of this section, such person, and any such vessel employed in such violation shall be detained and shall be delivered as promptly as practicable to an authorized official of the nation to which they belong in accordance with the provisions of the Convention.

(e) Any officer of the Coast Guard, any officer of the Department of Commerce, or any other person authorized to enforce the provisions of the Convention and this Act referred to in subsection (b) of this section, may be directed to attend as witnesses and to produce such available records and files or duly certified copies thereof as may be necessary to the prosecution in Canada or Japan of any violation of the provisions of the Convention or any Canadian or Japanese law for the enforcement thereof when requested by the appropriate authorities of Canada or Japan respectively.

⁵ Added by sec. 102 of Public Law 92-471 (86 Stat. 784).

(f) * The Secretary of Commerce may designate officers of the States and Territories of the United States to enforce the provisions of the Convention and this Act in so far as they pertain to fishing vessels of the United States and the persons on board such vessels.

SEC. 10. (a) † It shall be unlawful for any person subject to the jurisdiction of the United States to engage in fishing in violation of any regulation adopted pursuant to this Act or of any order of a court issued pursuant to section 11 of this Act; to ship, transport, purchase, sell, offer for sale, import, export, or have in custody, possession, or control any fish taken or retained in violation of any such regulation or order; to fail to make, keep, submit, or furnish any record or report required of him by such regulation, or to refuse to permit any officer authorized to enforce such regulations to inspect such record or report at any reasonable time.

(b) It shall be unlawful for any person or fishing vessel subject to the jurisdiction of the United States to engage in the catching of any stock of fish from which the United States may agree to abstain in the waters specified for such abstention as set forth in the Annex to the Convention, or to load, process, possess, or transport any such fish or fish products processed therefrom in the said waters, or to land in a port of the United States any fish so caught, loaded, possessed, or transported or any fish products processed therefrom.

(c) It shall be unlawful for any person or fishing vessel subject to the jurisdiction of the United States knowingly to load, process, possess, or transport any fish specified in subsection (b) of this section or any fish products processed therefrom in the territorial waters of the United States or in any waters of the Convention area in addition to those specified in subsection (b) of this section, or to land in a port of the United States any such fish or fish products.

(d) It shall be unlawful for any person or fishing vessel subject to the jurisdiction of the United States knowingly to load, process, possess, or transport in the Convention area or in the territorial waters of the United States any fish taken by a national of Canada or Japan from a stock of fish from which Canada or Japan respectively has agreed to abstain as set forth in the Annex to the Convention or any fish products processed therefrom, or to land such fish or fish products in a port of the United States.

(e) It shall be unlawful for any person subject to the jurisdiction of the United States to aid or abet in the taking of fish by a national or fishing vessel of Canada or of Japan from a stock of fish from which Canada or Japan has respectively agreed to abstain as set forth in the Annex of the Convention.

(f) It shall be unlawful for the master or owner or any person in charge of any fishing vessel of the United States to refuse to permit the duly authorized officials of the United States, Canada, or Japan to board such vessel or inspect its equipment, books, documents, or other articles or question the persons on board in accordance with the provision of the Convention, or to obstruct such officials in the execution of such duties.

* Formerly section 9 of the original North Pacific Fisheries Act. "Secretary of Commerce" was substituted for "Secretary of the Interior" by sec 107 of Public Law 92-471.

† Added by Public Law 92-471.

(g) It shall be unlawful for any person or vessel subject to the jurisdiction of the United States to do any act prohibited or fail to do any act required by any regulation adopted pursuant to this Act.

SEC. 11. (a) Any person violating subsection (b), (c), or (d) of section 10 of this Act shall upon conviction be fined not more than \$10,000, and for such offense the court may order forfeited, in whole or in part, the fish concerned in the offense, or the fishing gear involved in such fishing, or both, or the monetary value thereof. Such forfeited fish or fishing gear shall be disposed of in accordance with the direction of the court.

(b) Any person violating subsection (e) of section 10 of this Act shall upon conviction be fined not more than \$10,000.

(c) Any person violating subsection (f) of section 10 of this Act shall upon conviction be fined not more than \$10,000 and be imprisoned for not more than one year or both, and for such offense the court may order forfeited, in whole or in part the fish and fishing gear on board the vessel, or both, or the monetary value thereof. Such fish and fishing gear shall be disposed of in accordance with the direction of the court.

(d) ⁸ Any person violating any other provision of this Act or any regulation adopted pursuant to this Act, upon conviction, shall be fined for a first offense not more than \$500 and for a subsequent offense committed within five years not more than \$1,000 and for such subsequent offense the court may order forfeited, in whole or in part, the fish taken by such person, or the fishing gear involved in such fishing, or both, or the monetary value thereof. Such forfeited fish or fishing gear shall be disposed of in accordance with the direction of the court.

SEC. 12.⁹ (a) Any duly authorized enforcement officer or employee of the Department of Commerce; any Coast Guard officer; any United States marshal or deputy United States marshal; any customs officer; and any other person authorized to enforce the provisions of the Convention, this Act, and the regulations issued pursuant thereto, shall have power without warrant or other process to arrest any person subject to the jurisdiction of the United States committing in his presence or view a violation of the Convention or of this Act, or of the regulations issued pursuant thereto, and take such person immediately for examination before a justice or judge or any other official designated in section 3041 of title 18 of the United States Code; and shall have power, without warrant or other process, to search any vessel subject to the jurisdiction of the United States when he has reasonable cause to believe that such vessel is engaging in fishing in violation of the provisions of the Convention or this Act, or the regulations issued pursuant thereto. Any person authorized to enforce the provisions of the Convention, this Act, or the regulations issued pursuant thereto, shall have power to execute any warrant or process issued by an officer or court of competent jurisdiction for the enforcement of this Act, and shall have power with a search warrant to search any vessel, vehicle, person, or place at any time. The judges of the United States district courts and the United States magistrates may,

⁸ As amended and restated by sec. 105 of Public Law 92-471.

⁹ As amended and restated by sec. 106 of Public Law 92-471. Previously amended by Public Law 85-114.

within their respective jurisdictions, upon proper oath or affirmation showing probable cause, issue warrants in all such cases. Any person authorized to enforce the provisions of the Convention, this Act, or the regulations issued pursuant thereto may, except in the case of a first offense, seize, whenever and wherever lawfully found, all fish taken or retained, and all fishing gear involved in fishing, contrary to the provisions of the Convention or this Act or to regulations issued pursuant thereto. Any property so seized shall not be disposed of except pursuant to the order of a court of competent jurisdiction or the provisions of subsection (b) of this section, or, if perishable, in the manner prescribed by regulations of the Secretary of Commerce.

(b) Notwithstanding the provisions of section 2464 of title 28, United States Code, when a warrant of arrest or other process in rem is issued in any cause under this section, the marshal or other officer shall stay the execution of such process, or discharge any property seized if the process has been levied, on receiving from the claimant of the property a bond or stipulation for double the value of the property with sufficient surety to be approved by a judge of the district court having jurisdiction of the offense, conditioned to deliver the property seized, if condemned, without impairment in value or, in the discretion of the court, to pay its equivalent value in money or otherwise to answer the decree of the court in such cause. Such bond or stipulation shall be returned to the court and judgment thereon against both the principal and sureties may be recovered in event of any breach of the conditions thereof as determined by the court.

SEC. 13. (a) There is hereby authorized to be appropriated from time to time such sums as may be necessary for carrying out the purposes and provisions of the Convention and this Act, including—

(1) necessary travel expenses of the United States Commissioners or Alternate Commissioners ¹⁰ without regard to the Standardized Government Travel Regulations, as amended, the Travel Expense Act of 1949, or section 10 of the Act of March 3, 1933 (U.S.C., title 5, sec. 73b); and

¹⁰ Public Law 92-247 added the words "or Alternate Commissioners". Sections 201 and 202 of Public Law 92-247 read as follows:

"TITLE II—ALTERNATE COMMISSIONERS

"Sec. 201. In order to insure appropriate representation at meetings of international fisheries commissions, the Secretary of State, in consultation with the Secretary of Commerce or of the Interior as appropriate may designate from time to time Alternate United States Commissioners to the North Pacific Fur Seal Commission, the Inter-American Tropical Tuna Commission, the International Pacific Halibut Commission, the Great Lakes Fishery Commission, the International Whaling Commission, the Commission for the Conservation of Shrimp in the Eastern Gulf of Mexico, the International Commission for the Conservation of Atlantic Tunas, and any similar commission (other than the International Commission for the Northwest Atlantic Fisheries and the International North Pacific Fisheries Commission) established pursuant to a convention between the United States and other governments. Alternate United States Commissioners may exercise, at any meeting of the respective Commission or of the United States Section thereof, all powers and duties of a United States Commissioner in the absence of a duly designated Commissioner for whatever reason. The number of such Alternate United States Commissioners that may be designated for any such meeting shall be limited to the number of authorized United States Commissioners that will not be present. In the event that there are Deputy United States Commissioners pursuant to the convention or statute, such Deputy United States Commissioners shall have precedence over any Alternate Commissioners so designated pursuant to this title.

"Sec. 202. Alternate United States Commissioners shall receive no compensation for their services. They may be paid travel expenses and per diem in lieu of subsistence at the rates authorized by section 5703 of title 5, United States Code, when engaged in the performance of their duties."

(2) the United States share of the joint expenses of the Commission; provided that the Commissioners shall not, with respect to commitments concerning the United States share of the joint expenses of the Commission, be subject to the provisions of section 262(b) of title 22 of the United States Code insofar as they limit the authority of United States representatives to international organizations with respect to such commitments.

(b) Such funds as shall be made available to the Secretary of the Interior for research and related activities shall be expended to carry out the program of the Commission in accordance with recommendations of the United States Section.

SEC. 14. If any provision of this Act or the application of such provision to any circumstances or persons shall be held invalid, the validity of the remainder of the Act and the applicability of such provision to other circumstances or persons shall not be affected thereby.

4. Tuna Conventions

a. Tuna Conventions Act of 1950, as amended

Public Law 81-764 [S. 2633], 64 Stat. 777; 16 U.S.C. 951-961, approved September 7, 1950, as amended by Public Law 87-814 [S. 2568], 76 Stat. 923, approved October 15, 1962; and by Public Law 92-471 [H.R. 9501], 86 Stat. 784, approved October 9, 1972

AN ACT To give effect to the Convention for the Establishment of an International Commission for the Scientific Investigation of Tuna, signed at Mexico City January 25, 1949,¹ by the United States of America and the United Mexican States, and the Convention for the Establishment of an Inter-American Tropical Tuna Commission, signed at Washington, May 31, 1949,² by the United States of America and the Republic of Costa Rica, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Tuna Conventions Act of 1950".

SEC. 2. As used in this chapter, the term—

(a) "convention" includes (1) the Convention for the Establishment of an International Commission for the Scientific Investigation of Tuna, signed at Mexico City, January 25, 1949, by the United States of America and the United Mexican States, (2) the Convention for the Establishment of an Inter-American Tropical Tuna Commission, signed at Washington May 31, 1949, by the United States of America and the Republic of Costa Rica, or both such conventions, as the context requires;

(b) "commission" includes (1) the International Commission for the Scientific Investigation of Tuna, (2) the Inter-American Tropical Tuna Commission provided for by the conventions referred to in subsection (a) of this section, or both such commissions, as the context requires;

(c) "United States Commissioners" means the members of the commissions referred to in subsection (b) of this section representing the United States of America and appointed pursuant to the terms of the pertinent convention and section 3 of this Act;

(d) "person" means every individual, partnership, corporation, and association subject to the jurisdiction of the United States; and

(e)³ "United States" shall include all areas under the sovereignty of the United States, the Trust Territory of the Pacific Islands, and the Canal Zone.

SEC. 3. The United States shall be represented on the two commissions by a total of not more than four United States Commissioners, who shall be appointed by the President, serve as such during his pleasure, and receive no compensation for their services as such Commissioners. Of such Commissioners—

¹ Terminated February 5, 1965.

² 1 UST 230; TIAS 2044; 80 UNITS 3. See boxnote on 391.

³ Public Law 87-814 substituted definition of "United States" for definition of "enforcement agency."

(a) not more than one shall be a person residing elsewhere than in a State whose vessels maintain a substantial fishery in the areas of the conventions;

(b) at least one of the Commissioners who are such legal residents shall be a person chosen from the public at large, and who is not a salaried employee of a State or of the Federal Government; and

(c) at least one shall be an officer of the United States Fish and Wildlife Service.

SEC. 4. The United States Commissioners shall (a) appoint an advisory committee which shall be composed of not less than five nor more than fifteen persons who shall be selected from the various groups participating in the fisheries included under the conventions, and (b) shall fix the terms of office of the members of such committee, who shall receive no compensation for their services as such members. The advisory committee shall be invited to attend all nonexecutive meetings of the United States sections and shall be given full opportunity to examine and to be heard on all proposed programs of investigation, reports, recommendations, and regulations of the commissions. The advisory committee may attend all meetings of the international commissions to which they are invited by such commissions.

SEC. 5. [Repealed by Public Law 92-471 (86 Stat. 784; 16 U.S.C. 954).].

SEC. 6. (a) The Secretary of State is authorized to approve or disapprove, on behalf of the United States Government, bylaws and rules, or amendments thereof, adopted by each commission and submitted for approval of the United States Government in accordance with the provisions of the conventions, and, with the concurrence of the Secretary of the Interior,⁴ to approve or disapprove the general annual programs of the commissions. The Secretary of State is further authorized to receive, on behalf of the United States Government, reports, requests, recommendations, and other communications of the commissions, and to take appropriate action thereon either directly or by reference to the appropriate authority.

(b) Regulations recommended by each commission pursuant to the convention requiring the submission to the commission of records of operations by boat captains or other persons who participate in the fisheries covered by the convention, upon the concurrent approval of the Secretary of State and the Secretary of the Interior,⁴ shall be promulgated by the latter and upon publication in the Federal Register, shall be applicable to all vessels and persons subject to the jurisdiction of the United States.

(c) ⁵ Regulations required to carry out recommendations of the commission made pursuant to paragraph 5 of article II of the Convention for the Establishment of an Inter-American Tropical Tuna Commission shall be promulgated as hereinafter provided by the Secretary of the Interior upon approval of such recommendations by the Secretary of State and the Secretary of the Interior. The Secretary of the Interior shall cause to be published in the Federal Register a general notice of proposed rulemaking and shall afford interested persons an opportunity to participate in the rulemaking through (1) submission

⁴ Public Law 87-814 substituted "Secretary of the Interior" for "head of the enforcement agency."

⁵ Public Law 87-814, added subsec. (c).

of written data, views, or arguments, and (2) oral presentation at a public hearing. Such regulations shall be published in the Federal Register and shall be accompanied by a statement of the considerations involved in the issuance of the regulations. After publication in the Federal Register such regulations shall be applicable to all vessels and persons subject to the jurisdiction of the United States on such date as the Secretary of the Interior shall prescribe, but in no event prior to an agreed date for the application by all countries whose vessels engage in fishing for species covered by the convention in the regulatory area on a meaningful scale, in terms of effect upon the success of the conservation program, of effective measures for the implementation of the commission's recommendations applicable to all vessels and persons subject to their respective jurisdictions. The Secretary of the Interior shall suspend at any time the application of any such regulations when, after consultation with the Secretary of State and the United States Commissioners, he determines that foreign fishing operations in the regulatory area are such as to constitute a serious threat to the achievement of the objectives of the commission's recommendations. The regulations thus promulgated may include the selection for regulation of one or more of the species covered by the convention; the division of the convention waters into areas; the establishment of one or more open or closed seasons as to each area; the limitation of the size of the fish and quantity of the catch which may be taken from each area within any season during which fishing is allowed; the limitation or prohibition of the incidental catch of a regulated species which may be retained, taken, possessed, or landed by vessels or persons fishing for other species of fish; the requiring of such clearance certificates for vessels as may be necessary to carry out the purposes of the convention and this Act; and such other measures incidental thereto as the Secretary of the Interior may deem necessary to implement the recommendations of the commission: *Provided*, That upon the promulgation of any such regulations the Secretary of the Interior shall promulgate additional regulations, with the concurrence of the Secretary of State, which shall become effective simultaneously with the application of the regulations hereinbefore referred to (1) to prohibit the entry into the United States from any country when the vessels of such country are being used in the conduct of fishing operations in the regulatory area in such manner or in such circumstances as would tend to diminish the effectiveness of the conservation recommendations of the commission, of fish in any form of those species which are subject to regulation pursuant to a recommendation of the commission and which were taken from the regulatory area; and (2) to prohibit entry into the United States, from any country, of fish in any form of those species which are subject to regulation pursuant to a recommendation of the commission and which were taken from the regulatory area by vessels other than those of such country in such manner or in such circumstances as would tend to diminish the effectiveness of the conservation recommendations of the commission. In the case of repeated and flagrant fishing operations in the regulatory area by the vessels of any country which seriously threaten the achievement of the objectives of the commission's recommendations, the Secretary of the Interior, with the concurrence of the Secretary of State, may, in his discretion, also prohibit the entry from such

country of such other species of tuna, in any form, as may be under investigation by the commission and which were taken in the regulatory area. The aforesaid prohibitions shall continue until the Secretary of the Interior is satisfied that the condition warranting the prohibition no longer exists, except that all fish in any form of the species under regulation which were previously prohibited from entry shall continue to be prohibited from entry.

SEC. 7.⁶ Any person authorized to carry out enforcement activities under this Act and any person authorized by the commissions shall have power without warrant or other process, to inspect, at any reasonable time, catch returns, statistical records, or other reports as are required by regulations adopted pursuant to this Act to be made, kept, or furnished.

SEC. 8.⁷ (a) It shall be unlawful for any master or other person in charge of a fishing vessel of the United States to engage in fishing in violation of any regulation adopted pursuant to section 6 of this Act or for any person knowingly to ship, transport, purchase, sell, offer for sale, import, export, or have in custody, possession, or control any fish taken or retained in violation of such regulations.

(b) It shall be unlawful for the master or any person in charge of any fishing vessel of the United States or any person on board such vessel to fail to make, keep, or furnish any catch returns, statistical records, or other reports as are required by regulations adopted pursuant to this Act to be made, kept, or furnished; or to fail to stop upon being hailed by a duly authorized official of the United States; or to refuse to permit the duly authorized officials of the United States or authorized officials of the commissions to board such vessel or inspect its catch, equipment, books, documents, records, or other articles or question the persons on board in accordance with the provisions of this Act, or the convention, as the case may be.

(c) It shall be unlawful for any person to import, in violation of any regulation adopted pursuant to section 4 of this Act, from any country, any fish in any form of those species subject to regulation pursuant to a recommendation of the commission, or any tuna in any form not under regulation but under investigation by the commission, during the period such fish have been denied entry in accordance with the provisions of section 4 of this Act. In the case of any fish as described in this subsection offered for entry into the United States, the Secretary of the Interior shall require proof satisfactory to him that such fish is not ineligible for such entry under the terms of section 6 of this Act.

(d) Any person violating any provisions of subsection (a) of this section shall be fined not more than \$25,000, and for a subsequent violation of any provisions of said subsection (a) shall be fined not more than \$50,000.

(e) Any person violating any provision of subsection (b) of this section shall be fined not more than \$1,000, and for a subsequent violation of any provision of subsection (b) shall be fined not more than \$5,000.

⁶ Public Law 87-814 substituted provisions respecting inspection of returns, records, or other reports for provisions authorizing a fine not exceeding \$1,000 and proceeding for injunction against fishing for or possessing the kind of fish covered by the convention for failure to make, keep, furnish, or refusal to permit inspection of returns, records, or reports or for furnishing a false return, record, or report.

⁷ Public Law 87-814 substituted provisions respecting violations, fines, and forfeitures and applications of related laws for provisions respecting enforcement of Act.

(f) Any person violating any provision of subsection (c) of this section shall be fined not more than \$100,000.

(g) All fish taken or retained in violation of subsection (a) of this section, or the monetary value thereof, may be forfeited.

(h) All provisions of law relating to the seizure, judicial forfeiture, and condemnation of a cargo for violation of the customs laws, the disposition of such cargo or the proceeds from the sale thereof, and the remission or mitigation of such forfeitures shall apply to seizures and forfeitures incurred, or alleged to have been incurred, under the provisions of this Act, insofar as such provisions of law are applicable and not inconsistent with the provisions of this Act.

SEC. 9. (a) In order to provide coordination between the general annual programs of the commissions and programs of other agencies, relating to the exploration, development, and conservation of fishery resources, the Secretary of State may recommend to the United States Commissioners that they consider the relationship of the commissions' programs to those of such agencies and when necessary arrange, with the concurrence of such agencies, for mutual cooperation between the commissions and such agencies for carrying out their respective programs.

(b) All agencies of the Federal Government are authorized on request of the commissions to cooperate in the conduct of scientific and other programs, or to furnish facilities and personnel for the purpose of assisting the commissions in the performance of their duties.

(c) The commissions are authorized and empowered to supply facilities and personnel to existing non-Federal agencies to expedite research work which in the judgment of the commissions is contributing or will contribute directly to the purposes of the conventions.

SEC. 10⁸. (a) The judges of the United States district courts and United States commissioners may, within their respective jurisdictions, upon proper oath or affirmation showing probable cause, issue such warrants or other process as may be required for enforcement of this Act and the regulations issued pursuant thereto.

(b) Enforcement of the provisions of this Act and the regulations issued pursuant thereto shall be the joint responsibility of the United States Coast Guard, the United States Department of the Interior, and the United States Bureau of Customs. In addition, the Secretary of the Interior may designate officers and employees of the States of the United States, of the Commonwealth of Puerto Rico, and of American Samoa to carry out enforcement activities hereunder. When so designated, such officers and employees are authorized to function as Federal law enforcement agents for these purposes.

(c) Any person authorized to carry out enforcement activities hereunder shall have the power to execute any warrant or process issued by any officer or court of competent jurisdiction for the enforcement of this Act.

(d) Such person so authorized shall have the power—

(1) with or without a warrant or other process, to arrest any persons subject to the jurisdiction of the United States at any place within the jurisdiction of the United States committing in his presence or view a violation of this Act or the regulations issued thereunder;

⁸ As amended and restated by sec. 5 of Public Law 87-814 (76 Stat. 925).

(2) with or without a warrant or other process, to search any vessel subject to the jurisdiction of the United States, and, if as a result of such search he has reasonable cause to believe that such vessel or any person on board is engaging in operations in violation of the provisions of this Act or the regulations issued thereunder, then to arrest such person.

(e) Such person so authorized may seize, whenever and wherever lawfully found, all fish taken or retained in violation of the provisions of this Act or the regulations issued pursuant thereto. Any fish so seized may be disposed of pursuant to the order of a court of competent jurisdiction, pursuant to the provisions of subsection (f) of this section or, if perishable, in a manner prescribed by regulations of the Secretary of the Interior.

(f) Notwithstanding the provisions of section 2464 of title 28 of the United States Code, when a warrant of arrest or other process in rem is issued in any cause under this section, the marshal or other officer shall stay the execution of such process, or discharge any fish seized if the process has been levied, on receiving from the claimant of the fish a bond or stipulation for the value of the property with sufficient surety to be approved by a judge of the district court having jurisdiction of the offense, conditioned to deliver the fish seized, if condemned, without impairment in value or, in the discretion of the court, to pay its equivalent value in money or otherwise to answer the decree of the court in such cause. Such bond or stipulation shall be returned to the court and judgment thereon against both the principal and sureties may be recovered in event of any breach of the conditions thereof as determined by the court. In the discretion of the accused, and subject to the direction of the court, the fish may be sold for not less than its reasonable market value and the proceeds of such sale placed in the registry of the court pending judgment in the case.

SEC. 11. None of the prohibitions contained in this Act or in the laws and regulations of the States shall prevent the commissions from conducting or authorizing the conduct of fishing operations and biological experiments at any time for the purpose of scientific investigations as authorized by the conventions, or shall prevent the commissions from discharging any of its or their functions or duties prescribed by the conventions.

SEC. 12. There is hereby authorized to be appropriated from time to time, out of any moneys in the Treasury not otherwise appropriated, such sums as may be necessary to carry out the provisions of each convention and of this Act, including—

(a) contributions to each commission for the United States share of any joint expenses of the commission and the expenses of the United States Commissioners and their staff, including personal services in the District of Columbia and elsewhere;

(b) travel expenses without regard to the Standardized Government Travel Regulations, as amended, the Travel Expense Act of 1949, or section 10 of the Act of March 3, 1933 (U.S.C., title 5, sec. 73b);

(c) printing and binding without regard to section 11 of the Act of March 1, 1919 (U.S.C., title 44, sec. 111), or section 3709 of the Revised Statutes (U.S.C., title 41, sec. 5);

(d) stenographic and other services by contract, if deemed necessary, without regard to section 3709 of the Revised Statutes (U.S.C., title 41, sec. 5) ; and

(e) purchase, hire, operation, maintenance, and repair of aircraft, motor vehicles (including passenger-carrying vehicles), boats and research vessels.

SEC. 13. If any provision of this Act or the application of such provision to any circumstances or persons shall be held invalid, the validity of the remainder of the Act and the applicability of such provision to other circumstances or persons shall not be affected thereby.

SEC. 14. This Act shall take effect with respect to each of the conventions upon the entry into force of that convention, unless such entry into force shall be prior to the date of approval of this Act in which case this Act shall take effect immediately.

b. Atlantic Tunas Convention Act of 1975¹

Public Law 94-70 [H.R. 5522], 89 Stat. 385, approved August 5, 1975; as amended by Public Law 94-265 [H.R. 200], 90 Stat. 331 at 361, approved April 13, 1976; and by Public Law 95-33 [H.R. 6205], 91 Stat. 173, approved May 26, 1977

AN ACT to give effect to the International Convention for the Conservation of Atlantic Tunas, signed at Rio de Janeiro May 14, 1966,² by the United States of America and other countries, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Atlantic Tunas Convention Act of 1975".

DEFINITIONS

SEC. 2. For the purpose of this Act—

(1) The term "Convention" means the International Convention for the Conservation of Atlantic Tunas, signed at Rio de Janeiro May 14, 1966, including any amendments or protocols which are or become effective for the United States.

(2) The term "Commission" means the International Commission for the Conservation of Atlantic Tunas provided for in article III of the Convention.

(3) The term "Council" means the Council established within the International Commission for the Conservation of Atlantic Tunas pursuant to article V of the Convention.

(4) The term "fisheries zone" means the waters included within a zone contiguous to the territorial sea of the United States, of which the inner boundary is a line coterminous with the seaward drawn in such a manner that each point on it is two hundred³ nautical miles from the baseline from which the territorial sea is measured;⁴ or similar zones established by other parties to the Convention to the extent that such zones are recognized by the United States.

(5) The term "fishing" means the catching, taking, or fishing for, or the attempted catching, taking, or fishing for any species of fish covered by the Convention, or any activities in support thereof.

(6) The term "fishing vessel" means any vessel engaged in catching fish or processing or transporting fish loaded on the high seas, or any vessel outfitted for such activities.

(7) The term "Panel" means any panel established by the Commission pursuant to article VI of the Convention.

¹ U.S.C. 971-971h.

² 20 UST 2887; see second boxnote p. 391.

³ Sec. 2 of Public Law 95-33 (91 Stat. 173) struck out "200" and inserted the words "two hundred".

⁴ Sec. 405(a) of the Fishery Conservation and Management Act of 1976 (Public Law 94-265) substituted the words to this point beginning with "the waters included within a zone." The language which was struck out read as follows: "the entire zone established by the United States under the Act of October 14, 1966 (80 Stat. 908; 16 U.S.C. 1091-1094)."

(8) The term "person" means every individual, partnership, corporation, and association subject to the jurisdiction of the United States.

(9) The term "Secretary" means the Secretary of Commerce.

(10) The term "State" includes each of the States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and the territories and possessions of the United States.

COMMISSIONERS

SEC. 3. (a) The United States shall be represented by not more than three Commissioners who shall serve as delegates of the United States on the Commission, and who may serve on the Council and Panels of the Commission as provided for in the Convention. Such Commissioners shall be appointed by and serve at the pleasure of the President. Not more than one such Commissioner shall be a salaried employee of any State or political subdivision thereof, or the Federal Government. The Commissioners shall be entitled to select a Chairman and to adopt such rules of procedure as they find necessary.

(b) The Secretary of State, in consultation with the Secretary, may designate from time to time and for periods of time deemed appropriate Alternate United States Commissioners to the Commission. Any Alternate United States Commissioner may exercise at any meeting of the Commission, Council, any Panel, or the advisory committee established pursuant to section 4 of this Act, all powers and duties of a United States Commissioner in the absence of any Commissioner appointed pursuant to subsection (a) of this section for whatever reason. The number of such Alternate United States Commissioners that may be designated for any such meeting shall be limited to the number of United States Commissioners appointed pursuant to subsection (a) of this section who will not be present at such meeting.

(c) The United States Commissioners or Alternate Commissioners, although officers of the United States while so serving, shall receive no compensation for their services as such Commissioners or Alternate Commissioners.

ADVISORY COMMITTEE

SEC. 4. The United States Commissioners shall appoint an advisory committee which shall be composed of not less than five nor more than twenty individuals who shall be selected from the various groups concerned with the fisheries covered by the Convention. Each member of the advisory committee shall serve for a term of two years and be eligible for reappointment. Members of the advisory committee may attend all public meetings of the Commission, Council, or any Panel and any other meetings to which they are invited by the Commission, Council, or any Panel. The advisory committee shall be invited to attend all nonexecutive meetings of the United States Commissioners and at such meetings shall be given opportunity to examine and to be heard on all proposed programs of investigation, reports, recommendations, and regulations of the Commission. Members of the advisory committee shall receive no compensation for their services as such members. On approval by the United States Commissioners—

(1) if not more than three members of the advisory committee are designated by the committee to attend any meeting of the

Commission, Council, or advisory committee, or of any Panel, each of such members shall be paid for his actual transportation expenses and per diem incident to his attendance; and

(2) in any case in which more than three members are designated by the advisory committee to attend any such meeting, each such member to whom paragraph (1) does not apply may be paid for his actual transportation expenses and per diem incident to his attendance.

SECRETARY OF STATE TO ACT FOR THE UNITED STATES

SEC. 5. (a) The Secretary of State is authorized to receive on behalf of the United States, reports, requests, and other communications of the Commission, and to act thereon directly or by reference to the appropriate authorities. The Secretary of State, with the concurrence of the Secretary and, for matters relating to enforcement, the Secretary of the department in which the Coast Guard is operating, is authorized to take appropriate action on behalf of the United States with regard to recommendations received from the Commission pursuant to article VIII of the Convention. The Secretary and, when appropriate, the Secretary of the department in which the Coast Guard is operating, shall inform the Secretary of State as to what action he considers appropriate within five months of the date of the notification of the recommendation from the Commission, and again within forty-five days of the additional sixty-day period provided by the Convention if any objection is presented by another contracting party to the Convention, or within thirty days of the date of the notification of an objection made within the additional sixty-day period, whichever date shall be the later. After any notification from the Commission that an objection of the United States is to be considered as having no effect, the Secretary shall inform the Secretary of State as to what action he considers appropriate within forty-five days of the sixty-day period provided by the Convention for reaffirming objections. The Secretary of State shall take steps under the Convention to insure that a recommendation pursuant to article VIII of the Convention does not become effective for the United States prior to its becoming effective for all contracting parties conducting fisheries affected by such recommendation on a meaningful scale in terms of their effect upon the success of the conservation program, unless he determines, with the concurrence of the Secretary, and, for matters relating to enforcement, the Secretary of the department in which the Coast Guard is operating, that the purposes of the Convention would be served by allowing a recommendation to take effect for the United States at some earlier time.

(b) The Secretary of State, in consultation with the Secretary and the Secretary of the department in which the Coast Guard is operating, is authorized to enter into agreements with any contracting party, pursuant to paragraph 3 of article IX of the Convention, relating to cooperative enforcement of the provisions of the Convention, recommendations in force for the United States and such party or parties under the Convention, and regulations adopted by the United States and such contracting party or parties pursuant to recommendations of the Commission. Such agreements may authorize personnel of the United States to enforce measures under the Conven-

tion and under regulations of another party with respect to persons under that party's jurisdiction, and may authorize personnel of another party to enforce measures under the Convention and under United States regulations with respect to persons subject to the jurisdiction of the United States. Enforcement under such an agreement may not take place within the territorial seas or fisheries zone of the United States. Such agreements shall not subject persons or vessels under the jurisdiction of the United States to prosecution or assessment of penalties by any court or tribunal of a foreign country.

ADMINISTRATION

SEC. 6. (a) The Secretary is authorized and directed to administer and enforce all of the provisions of the Convention, this Act, and regulations issued pursuant thereto, except to the extent otherwise provided for in this Act. In carrying out such functions the Secretary is authorized and directed to adopt such regulations as may be necessary to carry out the purposes and objectives of the Convention and this Act, and with the concurrence of the Secretary of State, he may cooperate with the duly authorized officials of the government of any party to the Convention. In addition, the Secretary may utilize, with the concurrence of the Secretary of the department in which the Coast Guard is operating insofar as such utilization involves enforcement at sea, with or without reimbursement and by agreement with any other Federal department or agency, or with any agency of any State, the personnel, services, and facilities of that agency for enforcement purposes with respect to any vessel in the fisheries zone, or wherever found, with respect to any vessel documented under the laws of the United States, and any vessel numbered or otherwise licensed under the laws of any State. When so utilized, such personnel of the States of the United States are authorized to function as Federal law enforcement agents for these purposes, but they shall not be held and considered as employees of the United States for the purposes of any laws administered by the Civil Service Commission.

(b) Enforcement activities at sea under the provisions of this Act for fishing vessels subject to the jurisdiction of the United States shall be primarily the responsibility of the Secretary of the department in which the Coast Guard is operating, in cooperation with the Secretary and the United States Customs Service. The Secretary after consultation with the Secretary of the department in which the Coast Guard is operating, shall adopt such regulations as may be necessary to provide for procedures and methods of enforcement pursuant to article IX of the Convention.

(c) (1) Upon favorable action by the Secretary of State under section 5(a) of this Act on any recommendation of the Commission made pursuant to article VIII of the Convention, the Secretary shall promulgate, pursuant to this subsection, such regulations as may be necessary and appropriate to carry out such recommendation.

(2) To promulgate regulations referred to in paragraph (1) of this subsection, the Secretary shall publish in the Federal Register a general notice of proposed rulemaking and shall afford interested persons an opportunity to participate in the rulemaking through (A) submission of written data, views, or arguments, and (B) oral presentation at a public hearing. Such regulations shall be published in the Federal

Register and shall be accompanied by a statement of the considerations involved in the issuance of the regulations, and by a statement, based on inquiries and investigations, assessing the nature and effectiveness of the measures for the implementation of the Commission's recommendations which are being or will be carried out by countries whose vessels engage in fishing the species subject to such recommendations within the waters to which the Convention applies. After publication in the Federal Register, such regulations shall be applicable to all vessels and persons subject to the jurisdiction of the United States on such date as the Secretary shall prescribe. The Secretary shall suspend at any time the application of any such regulation when, after consultation with the Secretary of State and the United States Commissioners, he determines that fishing operations in the Convention area of a contracting party for whom the regulations are effective are such as to constitute a serious threat to the achievement of the Commission's recommendations.

(3) The regulations required to be promulgated under paragraph (1) of this subsection may—

(A) select for regulation one or more of the species covered by the Convention;

(B) divide the Convention waters into areas;

(C) establish one or more open or closed seasons as to each such area;

(D) limit the size of the fish and quantity of the catch which may be taken from each area within any season during which fishing is allowed;

(E) limit or prohibit the incidental catch of a regulated species which may be retained, taken, possessed, or landed by vessels or persons fishing for other species of fish;

(F) require records of operations to be kept by any master or other person in charge of any fishing vessel;

(G) require such clearance certificates for vessels as may be necessary to carry out the purposes of the Convention and this Act;

(H) require proof satisfactory to the Secretary that any fish subject to regulation pursuant to a recommendation of the Commission offered for entry into the United States has not been taken or retained contrary to the recommendations of the Commission made pursuant to article VIII of the Convention which have been adopted as regulations pursuant to this section; and

(I) impose such other requirements and provide for such other measures as the Secretary may deem necessary to implement any recommendation of the Commission.

(4) Upon the promulgation of regulations provided for in paragraph (3) of this subsection, the Secretary shall promulgate, with the concurrence of the Secretary of State and pursuant to the procedures prescribed in paragraph (2) of this subsection, additional regulations which shall become effective simultaneously with the application of the regulations provided for in paragraph (3) of this subsection, which prohibit—

(A) the entry into the United States of fish in any form of those species which are subject to regulation pursuant to a recommendation of the Commission and which were taken from the

Convention area in such manner or in such circumstances as would tend to diminish the effectiveness of the conservation recommendations of the Commission; and

(B) the entry into the United States, from any country when the vessels of such country are being used in the conduct of fishing operations in the Convention area in such manner or in such circumstances as would tend to diminish the effectiveness of the conservation recommendations of the Commission, of fish in any form of those species which are subject to regulation pursuant to a recommendation of the Commission and which were taken from the Convention area.

(5) In the case of repeated and flagrant fishing operations in the Convention area by the vessels of any country which seriously threaten the achievement of the objectives of the Commission's recommendations, the Secretary with the concurrence of the Secretary of State, may by regulations promulgated pursuant to paragraph (2) of this subsection prohibit the entry in any form from such country of other species covered by the Convention as may be under investigation by the Commission and which were taken in the Convention area. Any such prohibition shall continue until the Secretary is satisfied that the condition warranting the prohibition no longer exists, except that all fish in any form of the species under regulation which were previously prohibited from entry shall continue to be prohibited from entry.

(d)(1) Notwithstanding section 5(a) and subsection (c) of this section, the recommendations of the Commission concerning bluefin tuna (*Thunnus thynnus thynnus*) which were proposed at the third regular meeting of the Council during the period beginning November 20 and ending November 26, 1974, shall apply with respect to persons and vessels subject to the jurisdiction of the United States immediately upon the taking effect of the regulations required to be promulgated under paragraph (2) of this subsection.

(2) Not later than the thirtieth day after the date of enactment of this Act, the Secretary shall promulgate such regulations as may be necessary and appropriate to carry out the purposes of paragraph (1) of this subsection, including, after consultation with the Secretary of the department in which the Coast Guard is operating, regulations providing procedures and methods of enforcement. Notwithstanding provisions of section 553 of title 5 of the United States Code, such regulations may be promulgated without general notice of proposed rulemaking, and such regulations may take effect on the date they are published in the Federal Register. Such regulations shall remain in force and effect with respect to persons and vessels subject to the jurisdiction of the United States until the last date on which the recommendations referred to in paragraph (1) can take effect under paragraph (3) of article VIII of the Convention, and if such recommendations do take effect under the Convention with respect to the United States on or before such last date, such regulations shall remain in force and effect, subject to the provisions of the Convention and this Act, for so long as such recommendations are so in effect.

VIOLATIONS; FINES AND FORFEITURES; APPLICATION OF RELATED LAWS

SEC. 7. (a) It shall be unlawful—

(1) for any person in charge of a fishing vessel or any fishing vessel subject to the jurisdiction of the United States to engage in fishing in violation of any regulation adopted pursuant to section 6 of this Act; or

(2) for any person subject to the jurisdiction of the United States to ship, transport, purchase, sell, offer for sale, import, export, or have in custody, possession, or control any fish which he knows, or should have known, were taken or retained contrary to the recommendations of the Commission made pursuant to article VIII of the Convention and adopted as regulations pursuant to section 6 of this Act, without regard to the citizenship of the person or vessel which took the fish.

(b) It shall be unlawful for the master or any person in charge of any fishing vessel subject to the jurisdiction of the United States to fail to make, keep, or furnish any catch returns, statistical records, or other reports as are required by regulations adopted pursuant to this Act to be made, kept, or furnished by such master or person.

(c) It shall be unlawful for the master or any person in charge of any fishing vessel subject to the jurisdiction of the United States to refuse to permit any person authorized to enforce the provisions of this Act and any regulations adopted pursuant thereto, to board such vessel and inspect its catch, equipment, books, documents, records, or other articles or question the persons onboard in accordance with the provisions of this Act, or the Convention, as the case may be, or to obstruct such officials in the execution of such duties.

(d) It shall be unlawful for any person to import, in violation of any regulation adopted pursuant to section 6(c) or (d) of this Act, from any country, any fish in any form of those species subject to regulation pursuant to a recommendation of the Commission, or any fish in any form not under regulation but under investigation by the Commission, during the period such fish have been denied entry in accordance with the provisions of section 6 (c) or (d) of this Act. In the case of any fish as described in this subsection offered for entry in the United States, the Secretary shall require proof satisfactory to him that such fish is not ineligible for such entry under the terms of section 6 (c) or (d) of this Act.

(e) (1) Any person who—

(A) violates any provision of subsection (a) of this section shall be assessed a civil penalty of not more than \$25,000, and for any subsequent violation of such subsection (a) shall be assessed a civil penalty of not more than \$50,000;

(B) violates any provision of subsection (b) or (c) of this section shall be assessed a civil penalty of not more than \$1,000, and for any subsequent violation of such subsection (b) and (c) shall be assessed a civil penalty of not more than \$5,000; or

(C) violates any provision of subsection (d) of this section shall be assessed a civil penalty of not more than \$100,000.

(2) The Secretary is responsible for the assessment of the civil penalties provided for in paragraph (1). The Secretary may remit or mitigate any civil penalty assessed by him under this subsection for good cause shown.

(3) No penalty shall be assessed under this subsection unless the person accused of committing any violation is given notice and opportunity for a hearing with respect to such violation.

(4) Upon any failure of any person to pay a penalty assessed under this subsection, the Secretary may request the Attorney General to institute a civil action in a district court of the United States or any district in which such person is found, resides, or transacts business to collect the penalty and such court shall have jurisdiction to hear and decide any such action.

(f) All fish taken or retained in violation of subsection (a) of this section, or the monetary value thereof, may be forfeited.

(g) All provisions of law relating to the seizure, judicial forfeiture, and condemnation of a cargo for violation of the customs laws, the disposition of such cargo or the proceeds from the sale thereof, and the remission or mitigation of such forfeitures shall apply to seizures and forfeitures incurred, or alleged to have been incurred, under the provisions of this Act, insofar as such provisions of law are applicable and not inconsistent with the provisions of this Act.

ENFORCEMENT

SEC. 8. (a) Any person authorized in accordance with the provisions of this Act to enforce the provisions of this Act and the regulations issued thereunder may—

(1) with or without a warrant, board any vessel subject to the jurisdiction of the United States and inspect such vessel and its catch, if as a result of such inspection, he has reasonable cause to believe that such vessel or any person on board is engaging in operations in violation of this Act or any regulations issued thereunder, he may, with or without a warrant or other process, arrest such person:

(2) arrest, with or without a warrant, any person who violates the provisions of this Act or any regulation issued thereunder in his presence or view:

(3) execute any warrant or other process issued by an officer or court of competent jurisdiction; and

(4) seize, whenever and wherever lawfully found, all fish taken or retained by a vessel subject to the jurisdiction of the United States in violation of the provisions of this Act or any regulations issued pursuant thereto. Any fish so seized may be disposed of pursuant to an order of a court of competent jurisdiction, or, if perishable, in a manner prescribed by regulation of the Secretary.

(b) To the extent authorized under the convention or by agreements between the United States and any contracting party concluded pursuant to section 5(b) of this Act for international enforcement, the duly authorized officials of such party shall have the authority to carry out the enforcement activities specified in section 8(a) of this Act with respect to persons or vessels subject to the jurisdiction of the United States, and the officials of the United States authorized pursuant to this section shall have the authority to carry out the enforcement activities specified in section 8(a) of this Act with respect to persons or vessels subject to the jurisdiction of such party, except that where any agreement provides for arrest or seizure of persons or vessels under United States jurisdiction it shall also provide that the

person or vessel arrested or seized shall be promptly handed over to a United States enforcement officer or another authorized United States official.

(c) Notwithstanding the provisions of section 2464 of title 28, United States Code, when a warrant of arrest or other process in rem is issued in any cause under this section, the marshal or other officer shall stay the execution of such process, or discharge any fish seized if the process has been levied, on receiving from the claimant of the fish a bond or stipulation for the value of the property with sufficient surety to be approved by a judge of the district court having jurisdiction of the offense, conditioned to deliver the fish seized, if condemned, without impairment in value or, in the discretion of the court, to pay its equivalent value in money or otherwise to answer the decree of the court in such cause. Such bond or stipulation shall be returned to the court and judgment thereon against both the principal and sureties may be recovered in event of any breach of the conditions thereof as determined by the court. In the discretion of the accused, and subject to the direction of the court, the fish may be sold for not less than its reasonable market value at the time of seizure and the proceeds of such sale placed in the registry of the court pending judgment in the case.

COOPERATION: COMMISSION'S FUNCTIONS NOT RESTRAINED BY THIS ACT
OR STATE LAWS

SEC. 9. (a) The United States Commissioners, through the Secretary of State and with the concurrence of the agency, institution, or organization concerned, may arrange for the cooperation of agencies of the United States Government, and of State and private institutions and organizations in carrying out the provisions of article IV of the Convention.

(b) All agencies of the Federal Government are authorized, upon the request of the Commission, to cooperate in the conduct of scientific and other programs, and to furnish facilities and personnel for the purpose of assisting the Commission in carrying out its duties under the Convention.

(c) None of the prohibitions deriving from this Act, or contained in the laws or regulations of any State, shall prevent the Commission from conducting or authorizing the conduct of fishing operations and biological experiments at any time for purposes of scientific investigation, or shall prevent the Commission from discharging any other duties prescribed by the Convention.

(d) (1) Except as provided in paragraph (2) of this subsection, nothing in this Act shall be construed so as to diminish or to increase the jurisdiction of any State in the territorial sea of the United States.

(2) In the event a State does not request a formal hearing and after notice by the Secretary, the regulations promulgated pursuant to this Act to implement recommendations of the Commission shall apply within the boundaries of any State bordering on any Convention area if the Secretary determines that any such State—

(A) has not, within a reasonable period of time after the promulgation of regulations pursuant to this Act, enacted laws or promulgated regulations which implement any such recommenda-

tion of the Commission within the boundaries of such State; or (B) has enacted laws or promulgated regulations which (i) are less restrictive than the regulations promulgated pursuant to this Act, or (ii) are not effectively enforced.

If a State requests the opportunity for an agency hearing on the record, the Secretary shall not apply regulations promulgated pursuant to this Act within that State's boundaries unless the hearing record supports a determination under paragraph (A) or (B). Such regulations shall apply until the Secretary determines that the State is effectively enforcing within its boundaries measures which are not less restrictive than such regulations.

(e) To insure that the purposes of subsection (d) are carried out, the Secretary shall undertake a continuing review of the laws and regulations of all States to which subsection (d) applies or may apply and the extent to which such laws and regulations are enforced.

APPROPRIATIONS

SEC. 10. There are authorized to be appropriated out of any moneys in the Treasury not otherwise appropriated, for fiscal year 1976, the period beginning July 1, 1976, and ending September 30, 1976, and fiscal years 1977, 1978, 1979, and 1980 ⁵ such sums as may be necessary for carrying out the purposes and provisions of this Act, including—

(1) necessary travel expenses of the United States Commissioners, Alternate United States Commissioners, and authorized advisors in accordance with the Federal Travel Regulations and sections 5701, 5702, 5704 through 5708, and 5731 of title 5, United States Code; and

(2) the United States share of the joint expenses of the Commission as provided in article X of the convention.

SEPARABILITY

SEC. 11. If any provision of this Act or the application of such provision to any circumstance or persons shall be held invalid, the validity of the remainder of the Act and the applicability of such provision to other circumstances or persons shall not be affected thereby.

⁵ Public Law 95-33 (91 Stat. 173) struck out the words "fiscal year 1977" and inserted the words "fiscal years 1977, 1978, 1979, and 1980".

5. Whaling Convention Act of 1949

Public Law 81-676 [S. 2080], 64 Stat. 421; 16 U.S.C. 916-916(l), approved August 9, 1950

AN ACT To authorize the regulation of whaling and to give effect to the International Convention for the Regulation of Whaling signed at Washington under date of December 2, 1946,¹ by the United States of America and certain other governments, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. That this Act may be cited as the "Whaling Convention Act of 1949".

SEC. 2. When used in this Act—

(a) Commission: The word "Commission" means the International Convention for the Regulation of Whaling signed at Washington under the date of December 2, 1946, by the United States of America and certain other governments.

(b) Commission: The word "Commission" means the International Whaling Commission established by article III of the convention.

(c) United States Commissioner: The words "United States Commissioner" mean the member of the International Whaling Commission representing the United States of America appointed pursuant to article III of the convention and section 3 of this Act.

(d) Person: The word "person" denotes every individual, partnership, corporation, and association subject to the jurisdiction of the United States.

(e) Vessel: The word "vessel" denotes every kind, type, or description of water craft or contrivance subject to the jurisdiction of the United States used, or capable of being used, as a means of transportation.

(f) Factory ship: The words "factory ship" mean a vessel in which or on which whales are treated or processed, whether wholly or in part.

(g) Land station: The words "land station" mean a factory on the land at which whales are treated or processed, whether wholly or in part.

(h) Whale catcher: The words "whale catcher" mean a vessel used for the purpose of hunting, killing, taking, towing, holding onto, or scouting for whales.

(i) Whale products: The words "whale products" mean any unprocessed part of a whale and blubber, meat, bones, whale oil, sperm oil, spermaceti, meal, and baleen.

(j) Whaling: The word "whaling" means the scouting for, hunting, killing, taking, towing, holding onto, and flensing of whales, and the possession, treatment, or processing of whales or of whale products.

¹ 62 Stat. 1716; TIAS 1849; 4 Bevans 248; 161 UNTS 62. See second boxnote page 391.

(k) **Regulations of the Commission:** The words "regulations of the Commission" mean the whaling regulations in the schedule annexed to and constituting a part of the convention in their original forms or as modified, revised, or amended by the Commission from time to time, in pursuance of article V of the convention.

(l) **Regulations of the Secretary of the Interior:** The words "regulations of the Secretary of the Interior" mean such regulations as may be issued by the Secretary of the Interior, from time to time, in accordance with sections 11 and 12 of this Act.

SEC. 3. (a) The United States Commissioner shall be appointed by the President, on the concurrent recommendations of the Secretary of State and the Secretary of the Interior, and shall serve at the pleasure of the President.

(b) The President may appoint a Deputy United States Commissioner, on the concurrent recommendations of the Secretary of State and the Secretary of the Interior. The Deputy United States Commissioner shall serve at the pleasure of the President and shall be the principal technical adviser to the United States Commissioner, and shall be empowered to perform the duties of the Commissioner in case of the death, resignation, absence, or illness of the Commissioner.

(c) The United States Commissioner and Deputy Commissioner, although officers of the United States Government, shall receive no compensation for their services.

SEC. 4. The Secretary of State is authorized, with the concurrence of the Secretary of the Interior, to present or withdraw any objections on behalf of the United States Government to such regulations or amendments of the schedule to the convention as are adopted by the Commission and submitted to the United States Government in accordance with article V of the convention. The Secretary of State is further authorized to receive on behalf of the United States Government reports, requests, recommendations, and other communications of the Commission, and to act thereon either directly or by reference to the appropriate authority.

SEC. 5. (a) It shall be unlawful for any person subject to the jurisdiction of the United States (1) to engage in whaling in violation of the convention or of any regulation of the Commission, or of this Act, or of any regulation of the Secretary of the Interior; (2) to ship, transport, purchase, sell, offer for sale, import, export, or have in possession any whale or whale products taken or processed in violation of the convention, or of any regulation of the Commission, or of this Act, or of any regulation of the Secretary of the Interior; (3) to fail to make, keep, submit, or furnish any record or report required of him by the convention, or by any regulation of the Commission, or by any regulation of the Secretary of the Interior, or to refuse to permit any officer authorized to enforce the convention, the regulations of the Commission, this Act, and the regulations of the Secretary of the Interior, to inspect such record or report at any reasonable time.

(b) It shall be unlawful for any person or vessel subject to the jurisdiction of the United States to do any act prohibited or to fail to do any act required by the convention, or by this Act, or by any regulation adopted by the Commission, or by any regulation of the Secretary of the Interior.

SEC. 6. (a) No person shall engage in whaling without first having obtained an appropriate license or scientific permit. Such licenses

shall be issued by the Secretary of the Interior or such officer of the Department of the Interior as may be designated by him: *Provided*, That the Secretary, in his discretion and by appropriate regulation, may waive the payment of any license fee or the requirement that a license first be obtained, in connection with the salvage of any "Dauhval" or unclaimed dead whale found floating or stranded.

(b) The following licenses and fees shall be required for each calendar year or any fraction thereof and shall be nontransferable except under such conditions as may be prescribed by the Secretary:

(1) Land-station license for primary processing of whales, \$250.

(2) Land-station license for secondary processing of parts of whales delivered to it by a land station licensed as a primary processor, \$100.

(3) Factory-ship license for primary processing of whales delivered by whale catchers, \$250.

(4) License for any vessel used exclusively for transporting whale products from a factory ship to a port during the whaling season, \$100.

(5) Whale-catcher license, \$100.

(c) All moneys derived from the issuance of whaling licenses shall be covered into the Treasury of the United States, and no license fee shall be refunded by reason of the failure of any person to whom a license has been issued to utilize the facility in whaling for which such license was issued.

(d) Any person, in making application for a license to operate a whale catcher, must furnish evidence or affidavit satisfactory to the Secretary of the Interior that, in addition to conforming to other applicable laws and regulations, (1) the whale catcher is adequately equipped and competently manned to engage in whaling in accordance with the provisions of the convention, the regulations of the Commission, and the regulations of the Secretary of the Interior; (2) gunners and crews will be compensated on some basis that does not depend primarily on the number of whales taken; and (3) no bonus or other partial remuneration with relation to the number of whales taken shall be paid to gunners and crews in respect of the taking of any whales, the taking of which is prohibited.

(e) Any person, in making application for a license to operate a land station or a factory ship must furnish evidence or affidavits to the satisfaction of the Secretary of the Interior that, in addition to conforming to other applicable laws and regulations, such land station or factory ship is adequately equipped to comply with provisions of the convention, of the regulations of the Commission, and of the regulations of the Secretary of the Interior with respect to the processing of whales or the manufacture of whale products.

SEC. 7. Any person who fails to make, keep, or furnish any catch return, statistical record, or any report that may be required by the convention, or by any regulation of the Commission, or by this Act, or by a regulation of the Secretary of the Interior, or any person who furnishes a false return, record, or report, upon conviction, shall be subject to such fine as may be imposed by the court not to exceed \$500, and shall in addition be prohibited from whaling, processing, or possessing whales and whale products from the date of conviction until such time as any delinquent return, record, or report shall have been submitted or any false return, record, or report shall have been re-

placed by a duly certified correct and true return, record, or report to the satisfaction of the court. The penalties imposed by section 8 of this Act shall not be invoked for failure to comply with requirements respecting returns, records, and reports.

SEC. 8. Except as to violations defined in clause 3 of subsection (a) of section (5) of this Act, any person violating any provision of the convention, or of any regulation of the Commission, or of this Act, or of any regulation of the Secretary of the Interior upon conviction, shall be fined not more than \$10,000 or be imprisoned not more than one year, or both. In addition the court may prohibit such person from whaling for such period of time as it may determine, and may order forfeited, in whole or in part, the whales taken by such person in whaling during the season, or the whale products derived therefrom or the monetary value thereof. Such forfeited whales or whale products shall be disposed of in accordance with the direction of the court.

SEC. 9. (a) Any duly authorized enforcement officer or employee of the Fish and Wildlife Service of the Department of the Interior; any Coast Guard officer; any United States marshal or deputy United States marshal; any customs officer; and any other person authorized to enforce the provisions of the convention, the regulations of the Commission, this Act, and the regulations of the Secretary of the Interior, shall have power, without warrant or other process but subject to the provisions of the convention, to arrest any person subject to the jurisdiction of the United States committing in his presence or view a violation of the convention or of this Act, or of the regulations of the Commission, or of the regulations of the Secretary of the Interior and to take such person immediately for examination before a justice or judge or any other official designated in section 3041 of title 18 of the United States Code; and shall have power, without warrant or other process, to search any vessel subject to the jurisdiction of the United States or land station when he has reasonable cause to believe that such vessel or land station is engaged in whaling in violation of the provisions of the convention or this Act, or the regulations of the Commission, or the regulations of the Secretary of the Interior. Any person authorized to enforce the provisions of the convention, this Act, the regulations of the Commission, or the regulations of the Secretary of the Interior shall have power to execute any warrant or process issued by an officer or court of competent jurisdiction for the enforcement of this Act, and shall have power with a search warrant to search any vessel, person, or place at any time. The judges of the United States district courts and the United States commissioners² may, within their respective jurisdictions, upon proper oath or affirmation showing probable cause, issue warrants in all such cases. Subject to the provisions of the convention, any person authorized to enforce the convention, this Act, the regulations of the Commission, and the regulations of the Secretary of the Interior may seize, whenever and wherever lawfully found, all whales or whale products taken, processed, or possessed contrary to the provisions of the convention, of

² References to United States commissioners to be deemed references to United States magistrates, see Public Law 90-578, title IV, § 402, Oct. 17, 1968, 82 Stat. 1118, which provided that, within each district, references in previously enacted statutes and previously promulgated rules and regulations to United States commissioners are to be deemed, within such district, references to United States magistrates duly appointed under section 631 of Title 28 as soon as the first United States magistrate assumes office within that district or on Oct. 17, 1971, whichever is earlier. See Applicable Law note under section 631 of Title 28, Judiciary and Judicial Procedure.

this Act, of the regulations of the Commission, or of the regulations of the Secretary of the Interior.

Any property so seized shall not be disposed of except pursuant to the order of a court of competent jurisdiction or the provisions of subsection (b) of this section, or, if perishable, in the manner prescribed by regulations of the Secretary of the Interior.

(b) Notwithstanding the provisions of section 2464 of title 28 of the United States Code, when a warrant of arrest or other process in rem is issued in any cause under this section, the marshal or other officer shall stay the execution of such process, or discharge any property seized if the process has been levied, on receiving from the claimant of the property a bond or stipulation for double the value of the property with sufficient surety to be approved by a judge of the district court having jurisdiction, conditioned to deliver the property seized, if condemned, without impairment in value or, in the discretion of the court, to pay its equivalent value in money or otherwise to answer the decree of the court in such cause. Such bond or stipulation shall be returned to the court and judgment thereon against both the principal and sureties may be recovered in event of any breach of the conditions thereof as determined by the court.

SEC. 10. (a) In order to avoid duplication in scientific and other programs, the Secretary of State, with the concurrence of the agency, institution, or organization concerned, may direct the United States Commissioner to arrange for the cooperation of agencies of the United States Government, and of State and private institutions and organizations in carrying out the provisions of article IV of the convention.

(b) All agencies of the Federal Government are authorized, on request of the Commission, to cooperate in the conduct of scientific and other programs, or to furnish facilities and personnel for the purpose of assisting the Commission in the performance of its duties as prescribed by the convention.

SEC. 11. Nothing contained in this Act shall prevent the taking of whales and the conducting of biological experiments at any time for purposes of scientific investigation in accordance with scientific permits and regulations issued by the Secretary of the Interior or shall prevent the Commission from discharging its duties as prescribed by the convention.

SEC. 12. (a) The Secretary of the Interior is authorized and directed to administer and enforce all of the provisions of this Act and regulations issued pursuant thereto and all of the provisions of the convention and of the regulations of the Commission, except to the extent otherwise provided for in this Act, in the convention, or in the regulations of the Commission. In carrying out such functions he is authorized to adopt such regulations as may be necessary to carry out the purposes and objectives of the convention, the regulations of the Commission, this Act, and with the concurrence of the Secretary of State, to cooperate with the duly authorized officials of the government of any party to the convention.

(b) Enforcement activities under the provisions of this Act relating to vessels engaged in whaling and subject to the jurisdiction of the

United States primarily shall be the responsibility of the Secretary of the Treasury in cooperation with the Secretary of the Interior.

(c) The Secretary of the Interior may authorize officers and employees of the coastal States of the United States to enforce the provisions of the convention, or of the regulations of the Commission, or of this Act, or of the regulations of the Secretary of the Interior. When so authorized such officers and employees may function as Federal law-enforcement officers for the purposes of this Act.

SEC. 13. Regulations of the Commission approved and effective in accordance with section 4 of this Act and article V of the convention shall be submitted for appropriate action or publication in the Federal Register by the Secretary of the Interior and shall become effective with respect to all persons and vessels subject to the jurisdiction of the United States in accordance with the terms of such regulations and the provisions of article V of the convention.

SEC. 14. There is hereby authorized to be appropriated from time to time, out of any moneys in the Treasury not otherwise appropriated, such sums as may be necessary to carry out the provisions of the convention and of this Act, including (1) contributions to the Commission for the United States share of any joint expenses of the Commission agreed by the United States and any of the other contracting governments, and (2) the expenses of the United States Commissioner and his staff, including (a) personal services in the District of Columbia and elsewhere, without regard to the civil-service laws and the Classification Act of 1923, as amended;³ (b) travel expenses without regard to the Travel Expense Act of 1949⁴ and section 73b of Title 5;⁵ (c) transportation of things, communication services; (d) rent of offices; (e) printing and binding without regard to section 111 of Title 44,⁶ and section 5 of Title 41; (f) stenographic and other services by contract, if deemed necessary, without regard to section 5 of Title 41; (g) supplies and materials; (h) equipment; (i) purchase, hire, operation, maintenance, and repair of aircraft, motor vehicles (including passenger-carrying vehicles), boats, and research vessels.

SEC. 15. If any provision of this Act or the application of such provision to any circumstances or persons shall be held invalid, the validity of the remainder of the Act and the applicability of such provision to other circumstances or persons shall not be affected thereby.

SEC. 16. The Whaling Treaty Act of May 1, 1936 (49 Stat. 1246; 16 U.S.C. 901-915), is hereby repealed and the Secretary of the Interior is authorized to refund any part of a license fee paid under said Act that is in excess of the license fee required under this Act.

³ The Classification Act of 1923, as amended, referred to in the text, was repealed by the Classification Act of 1949, act Oct. 28, 1949, ch. 782, title XII, § 1202, 63 Stat. 972. Section 1106 of act Oct. 28, 1949, provided that wherever reference was made to the Classification Act of 1923 it should be deemed a reference to the Classification Act of 1949. The Classification Act of 1949 is now covered by chapter 51 and subchapter III of chapter 53 of Title 5, Government Organization and Employees.

⁴ The Travel Expense Act of 1949, referred to in the text, is now covered by section 5701 et seq. of Title 5.

⁵ Section 73b of Title 5, referred to in text, is now covered by section 5731 of Title 5.

⁶ Section 111 of Title 44, referred to in text, is now covered by section 501 of Title 44 Public Printing and Documents.

6. Bilateral Inter-American Fishing Agreements With the United States

a. Brazil

Offshore Shrimp Fisheries Act of 1973

Public Law 93-242 [H.R. 8529], 87 Stat. 1061; 16 U.S.C. 1100b-1100b-10, approved January 2, 1974, as amended by Public Law 94-58 [H.R. 5709], 89 Stat. 266, approved July 24, 1975

AN ACT To implement the shrimp fishing agreement with Brazil,¹ and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Offshore Shrimp Fisheries Act of 1973".

NOTE.—All provisions of this Act except for Sec. 15 expired on September 30, 1977.

SEC. 15. Subsections (a) and (b) of section 5 of the Act of May 20, 1964 (78 Stat. 196), are amended to read as follows:

"(a) As used in this Act, the term 'Continental Shelf fishery resource' means living organisms belonging to sedimentary species; that is to say, organisms, which at the harvestable stage, either are immobile on or under the seabed or are unable to move except in constant physical contact with the seabed or the subsoil of the Continental Shelf, including the following species:

"CRUSTACEA

- "Tanner Crab—*Chionoecetes tanneri*;
- "Tanner Crab—*Chionoecetes opilio*;
- "Tanner Crab—*Chionoecetes angulatus*;
- "Tanner Crab—*Chionoecetes bairdi*;
- "King Crab—*Paralithodes camtschatica*;
- "King Crab—*Paralithodes platypus*;
- "King Crab—*Paralithodes brevipes*;
- "Stone Crab—*Menippe mercenaria*;
- "Lobster—*Homarus americanus*;
- "Dungeness Crab—*Cancer magister*;
- "California King Crab—*Paralithodes californiensis*;
- "Golden King Crab—*Lithodes acquispinus*;
- "Northern Stone Crab—*Lithodes maia*;
- "Stone Crab—*Menippe mercenaria*; and
- "Deep-sea Red Crab—*Ceryon quinquedens*.

¹ TIAS 7603.

"MOLLUSKS

- "Red Abalone—*Haliotis rufescens*;
- "Pink Abalone—*Haliotis corrugata*;
- "Japanese Abalone—*Haliotis kamtschatkana*;
- "Queen Conch—*Strombus gigas*;
- "Surf Clam—*Spisula solidissima*; and
- "Ocean Quahog—*Artica islandica*.

"SPONGES

- "Glove Sponge—*Hippiospongia canaliculata*;
- "Sheepswool Sponge—*Hippiospongia lachne*;
- "Grass Sponge—*Spongia graminea*;
- "Yellow Sponge—*Spongia barbera*.

"(b) The Secretary of Commerce, in consultation with the Secretary of State, is authorized to publish in the Federal Register additional species of living organisms covered by the provisions of subsection (a) of this section."

b. Canada

**Sockeye Salmon or Pink Salmon Fishing Act of 1947,
as amended ¹**

Public Law 80-255 [H.R. 3767], 61 Stat. 511, approved July 29, 1947, as amended by Public Law 85-192 [S. 1806], 71 Stat. 293, approved July 11, 1967, and Public Law 92-504 [H.R. 16870], 86 Stat. 907, approved October 18, 1972

AN ACT To provide for the protection, preservation and extension of the sockeye salmon fishery of the Fraser River system, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Sockeye Salmon or Pink Salmon ² Fishing Act of 1947".

SEC. 2. When used in this chapter—

(a) Convention: The word "convention" means the convention between the United States of America and the Dominion of Canada for the protection, preservation, and extension of the sockeye salmon fisheries of the Fraser River system, signed at Washington on the 26th day of May 1930,³ as amended by the protocol to the convention, signed at Ottawa on the 28th day of December 1956.⁴

(b) Commission: The word "Commission" means the International Pacific Salmon Fisheries Commission provided for by article II of the convention.

(c) Person: The word "person" includes individuals, partnerships, associations, and corporations.

(d) Convention waters: The term "convention waters" means those waters described in article I of the convention.

(e)⁵ Sockeye salmon and pink salmon: The term "sockeye salmon" means that species of salmon known by the scientific name *Oncorhynchus nerka*, and the term "pink salmon" means that species of salmon known by the scientific name *Oncorhynchus gorbuscha*.

(f) Vessel: The word "vessel" includes every type or description of water craft or other contrivance used, or capable of being used, as a means of transportation in water.

(g) Fishing: The word "fishing" means the fishing for, catching, or taking, or the attempted fishing for, catching, or taking of any sockeye salmon or pink salmon ² in convention waters.

(h) Fishing gear: The term "fishing gear" means any net, trap, hook, or other device, appurtenance or equipment, of whatever kind or description, used or capable of being used, for the purpose of capturing fish or as an aid in capturing fish.

¹ 16 U.S.C. 776-776f.

² Sec. 3 of Public Law 85-102 (71 Stat. 294) substituted the words "Sockeye Salmon or Pink Salmon" for "Sockeye Salmon" wherever it occurs in this public law.

³ 50 Stat. 1355; TS 918; 6 Bevans 41; 185 LNTS 305. See second boxnote on page 391.

⁴ Sec. 1 of Public Law 85-102, substituted the word "fisheries" for "fishery" and inserted, "as amended by the protocol to the convention, signed at Ottawa on the 28th day of December 1956".

⁵ Sec. 2 of Public Law 85-102, added definition of "pink salmon."

SEC. 3. (a) It shall be unlawful for any person to engage in fishing for sockeye salmon or pink salmon² in convention waters in violation of the convention or of this Act or of any regulation of the Commission.

(b) It shall be unlawful for any person to ship, transport, purchase, sell, offer for sale, import, export, or have in possession any sockeye salmon or pink salmon² taken in violation of the convention or of this Act or of any regulation of the Commission.

(c) It shall be unlawful for any person or vessel to use any port or harbor or other place subject to the jurisdiction of the United States for any purpose connected in any way with fishing in violation of the convention or of this Act or of any regulation made by the Commission.

(d) It shall be unlawful for any person or vessel to engage in fishing for sockeye salmon or pink salmon² in convention waters without first having obtained such license or licenses as may be used by or required by the Commission, or to fail to produce such license, upon demand, for inspection by an authorized enforcement officer.

(e) It shall be unlawful for any person to fail to make, keep, submit, or furnish any record, or report required of him by the Commission or to refuse to permit any officer authorized to enforce the convention, this Act, and the regulations of the Commission, or any authorized representative of the Commission, to inspect any such record or report at any reasonable time.

(f) It shall be unlawful for any person to molest, interfere with, tamper with, damage, or destroy any boat, net, equipment, stores, provisions, fish-cultural stations, rearing pond, weir, fishway or any other facility acquired, constructed, or maintained by the Commission.

(g) It shall be unlawful for any person or vessel to do any act prohibited or to fail to do any act required by the convention or by this Act or by any regulation of the Commission.

SEC. 4. Any person who fails to make, keep, or furnish any catch return, statistical record, or any report that may be required by the Commission, or any person who furnishes a false return, record, or report, upon conviction shall be subject to such fine as may be imposed by the court not to exceed \$1,000, and shall in addition be prohibited from fishing for and from shipping, transporting, purchasing, selling, offering for sale, importing, exporting, or possessing sockeye salmon or pink salmon² from the date of conviction until such time as any delinquent return record, or report shall have been submitted or any false return, record, or report shall have been replaced by a duly certified correct and true return, record, or report to the satisfaction of the court. The penalties imposed by section 5 of this Act shall not be invoked for failure to comply with requirements respecting returns, records, and reports.

SEC. 5. (a) Except as provided in section 4, any person violating any provision of the convention or of this Act or the regulation of the Commission upon conviction shall be fined not more than \$1,000 or be imprisoned not more than one year, or both, and the court may prohibit such person from fishing for, or from shipping, transporting, purchasing, selling, offering for sale, importing, exporting, or possessing sockeye salmon or pink salmon² for such period of time as it may determine.

(b) The catch of fish of every vessel or of any fishing gear-employed in any manner, or any fish caught, shipped, transported, purchased, sold, offered for sale, imported, exported, or possessed in violation of this Act or the regulations of the Commission shall be forfeited; and upon a second and subsequent violation the catch of fish shall be forfeited and every such vessel and any fishing gear and appurtenances involved in the violation may be forfeited.

(c) All procedures of law relating to the seizure, judicial forfeiture, and condemnation of a vessel for violation of the customs laws and the disposition of such vessel or the proceeds from the sale thereof shall apply to seizures, forfeitures, and condemnations incurred, or alleged to have been incurred, under the provisions of this Act insofar as such provisions of law are applicable and not inconsistent with this Act.

(d) In cases of minor violations of the provisions of the convention or of this Act or the regulations of the Commission, and in cases where immediate arrest of the person or seizure of fish, fishing gear, or of a vessel, together with its tackle, apparel, furniture, appurtenances, and cargo, would impose an unreasonable hardship, the person authorized to make such arrest or seizure or any court of competent jurisdiction may, in his or its discretion, issue a citation requiring such person to appear before the proper official of the court having jurisdiction thereof within a specified time, not exceeding fifteen days; or in the case of property, post such citation upon said property and require its delivery to such court within such specified time. Upon the issuance of such citation and the filing of a copy thereof with the clerk of the appropriate court the person so cited and the property so seized and posted shall thereupon be subject to the jurisdiction of the court to answer the order of the court in such cause. Any property so seized shall not be disposed of except pursuant to the order of such court or the provisions of subsection (e) of this section.

(e) When a warrant of arrest or other process in rem, including that specified in subsection (d) of this section, is issued in any cause of admiralty jurisdiction under this section, the marshal or other officer shall stay the execution of such process, or discharge any property seized if the process has been levied, on receiving from the claimant of the property a bond or stipulation with sufficient sureties or approved corporate surety in such sum as the court shall order, conditioned to deliver the property seized, if condemned, without impairment in value (or, in the case of sockeye salmon or pink salmon,² to pay its equivalent in money) or otherwise to answer the decree of the court in such cause. Such bond or stipulation shall be returned to the court and judgment thereon against both the principal and sureties may be recovered in the event of any breach of the conditions thereof as determined by the court.

SEC. 6.⁶ (a) The President of the United States shall designate a Federal agency which shall be responsible for the enforcement of the

⁶ All functions of all other officers of the Department of the Interior and all functions of all agencies and employees of such Department were, with two exceptions, transferred to the Secretary of the Interior, with power vested in him to authorize their performance or the performance of any of his functions by any of such officers, agencies, and employees, by 1950 Reorg. Plan No. 3, § 1, 2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, set out in the Appendix to Title 5, Government Organization and Employees.

All functions of all officers of the Department of the Treasury, and all functions of all agencies and employees of such Department, were transferred, with certain exceptions, to the Secretary of the Treasury, with power vested in him to authorize their performance

provisions of the convention and this Act and the regulations of the Commission, except to the extent otherwise provided for in the convention and this Act. It shall be the duty of the Federal agency so designated to take appropriate measures for enforcement at such times and to such extent as it may deem necessary to insure effective enforcement and for this purpose to cooperate with other Federal agencies, State officers, the Commission, and with the authorized officers of the Dominion of Canada.

(b) The Federal agency designated by the President for enforcement purposes may authorize officers and employees of the State of Washington to enforce the provisions of the convention and of this Act and the regulations of the Commission. When so authorized such officers may function as Federal law-enforcement officers for the purposes of this Act.

(c) Enforcement of the convention and this Act and the regulations of the Commission shall be subject to and in accordance with the provisions of article IX of the convention.

(d) Any duly authorized officer or employee of the Federal agency designated by the President for enforcement purposes under the provisions of subsection (a) of this section 6; any officer or employee of the State of Washington who is authorized by the Federal agency so designated by the President; any enforcement officer of the Fish and Wildlife Service of the Department of the Interior, any Coast Guard officer, any United States marshal or deputy United States marshal, any collector or deputy collector of customs, and any other person authorized to enforce the provisions of the convention, this Act, and the regulations of the commission, shall have power, without warrant or other process, but subject to the provisions of the convention, to arrest any person committing in his presence or view a violation of the convention or of this Act or of the regulations of the Commission and to take such person immediately for examination before an officer or trial before a court of competent jurisdiction; and shall have power, without warrant or other process, to search any vessel within convention waters when he has reasonable cause to believe that such vessel is subject to seizure under the provisions of the convention or this Act, or the regulations of the Commission, and to search any place of business or any commercial vehicle when he has reasonable cause to believe that such place or vehicle contains fish taken, possessed, transported, purchased, or sold in violation of any of the provisions of the convention, this Act, or the regulations of the Commission. Any person authorized to enforce the provisions of the convention and of this Act and the regulations of the Commission shall have power to execute any warrant or process issued by an officer or court of competent jurisdiction for the enforcement of this Act, and shall have power with a search warrant to search any person, vessel, or place, at any time. The judges of the United States courts and the United States commis-

(Continued)

or the performance of any of his functions, by any of such officers, agencies, and employees, by 1950 Reorg. Plan No. 2, § 1, 2, eff. July 31, 1950, 15 F.R. 4395 64 Stat. 1280, set out in the Appendix to Title 5. The Coast Guard, referred to in this section, was generally a service in the Treasury Department, but such Plan excepted, from the transfer, the functions of the Coast Guard, and of the Commandant thereof, when the Coast Guard was operating as a part of the Navy under sections 1 and 3 of Title 14, Coast Guard.

The President by Ex. Ord. No. 9892, Sept. 22, 1947, 12 F.R. 6345, designated the Fish and Wildlife Service as the Federal Agency responsible for the enforcement of this Act.

sioners may, within their respective jurisdictions, upon proper oath or affirmation showing probable cause, issue warrants in all such cases. Subject to a violation of the convention or of this Act or of the regulations of the Commission and to take such person immediately for examination before an officer or trial before a court of competent jurisdiction: and shall have power, without warrant or other process, to search any vessel within convention waters when he has reasonable cause to believe that such vessel is subject to seizure under the provisions of the convention or this Act, or the regulations of the Commission, and to search any place of business or any commercial vehicle when he has reasonable cause to believe that such place or vehicle contains fish taken, possessed, transported, purchased, or sold in violation of any of the provisions of the convention, this Act or the regulations of the Commission. Any person authorized to enforce the provisions of the convention and of this Act and the regulations of the Commission shall have power to execute any warrant or process issued by an officer or court of competent jurisdiction for the enforcement of this Act, and shall have power with a search warrant to search any person, vessel, or place, at any time. The judges of the United States courts and the United States commissioners may, within their respective jurisdictions, upon proper oath or affirmation showing probable cause, issue warrants in all such cases. Subject to the provisions of the convention, any person authorized to enforce the convention and this Act and the regulations of the Commission may seize, whenever and wherever lawfully found, all fish caught, shipped, transported, purchased, sold, offered for sale, imported, exported or possessed contrary to the provisions of the convention or this Act or the regulations of the Commission and may seize any vessel together with its tackle, apparel, furniture, appurtenances and cargo, and all fishing gear, used or employed contrary to the provisions of the convention or this Act or the regulations of the Commission, or which it reasonably appears has been used or employed contrary to the provisions of the convention or this Act or the regulations of the Commission.

(e) Evidence of any regulation made by the Commission may be given in any court proceedings by the production of a copy of such regulation certified by the Secretary of the Commission to be a true copy and no proof of the signature of the Secretary on such certification shall be required.

(f) Any authorized representative of the Commission, or any person authorized to enforce this Act and the regulations of the Commission may inspect any licenses issued to persons or vessels engaging in fishing for sockeye salmon or pink salmon⁷ in convention waters and for this purpose may at any reasonable time board any vessel or enter upon any premises where such fishing is or may be conducted.

SEC. 7. (a) All agencies of the Federal Government are authorized, upon request by the Commission, to furnish facilities and personnel for the purpose of assisting the Commission in carrying out its duties of scientific investigation and improvement of the fisheries,⁸ as specified in the convention.

(b) None of the prohibitions contained in this Act, or in the laws and regulations of the States, shall prevent the Commission from con-

⁷ Public Law 85-102 inserted the words "or pink salmon".

⁸ Public Law 85-102 substituted the word "fisheries" for "fishery".

ducting or authorizing the conduct of fishing operations and biological experiments at any time for purposes of scientific investigation, or shall prevent the Commission from discharging any other duties prescribed by the convention.

SEC. 8 (a) There is authorized to be appropriated, out of any moneys in the Treasury not otherwise appropriated, such sums, from time to time, as may be necessary to enable the Commission and agencies of the Federal Government to carry out the provisions of the convention and of this Act, including purchase, operation, maintenance, and repair of aircraft, motor vehicles (including passenger-carrying vehicles), boats, research vessels, and other necessary facilities; and printing.

(b) ⁹ In addition to the amount authorized in subsection (a) of this section, there is authorized to be appropriated the sum of \$7,000,000 for the share of the United States of costs and expenses incident to the development and construction of salmon enhancement facilities pursuant to the program for the restoration and extension of the sockeye and pink salmon stocks of the Fraser River system as approved by the Commission, to remain available until expended.

SEC. 9. If any provision of this Act is held invalid for any cause, such invalidity shall not affect the other provisions hereof.

SEC. 10. This Act shall be effective thirty days from the date of its approval.

⁹ Public Law 92-504 (86 Stat. 907) added subsection (b).

7. Fishermen's Protective Act of 1967, as amended ¹

Public Law 83-680 [H.R. 9584], 68 Stat. 883, approved August 27, 1954, as amended by Public Law 90-482 [S. 2261], 82 Stat. 729, approved August 12, 1968; Public Law 92-219 [H.R. 3304], 85 Stat. 286, approved December 23, 1971; Public Law 92-569 [H.R. 7117], 86 Stat. 182, approved October 26, 1972; Public Law 92-594 [S. 3545], 86 Stat. 1313, approved October 27, 1972; Public Law 94-265 [H.R. 200], 90 Stat. 331 at 360, approved April 13, 1976; Public Law 94-273 [S. 2445], 90 Stat. 375 at 377, approved April 21, 1976; and by Public Law 95-194 [S. 1184], 91 Stat. 1413, approved November 18, 1977

AN ACT To protect the rights of vessels of the United States on the high seas and in territorial waters of foreign countries.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled. That for the purposes of this Act the term "vessel of the United States" shall mean any private vessel documented or certificated under the laws of the United States.

SEC. 2.² If—

(1) any vessel of the United States is seized by a foreign country on the basis of claims in territorial waters or the high seas which are not recognized by the United States; or

(2) any general claim of any foreign country to exclusive fishery management authority is recognized by the United States, and any vessel of the United States is seized by such foreign country on the basis of conditions and restrictions under such claim, if such conditions and restrictions—

(A) are unrelated to fishery conservation and management,

(B) fail to consider and take into account traditional fishing practices of vessels of the United States,

(C) are greater or more onerous than the conditions and restrictions which the United States applies to foreign fishing vessels subject to the exclusive fishery management authority of the United States (as established in title I of the Fishery Conservation and Management Act of 1976), or

(D) fail to allow fishing vessels of the United States equitable access to fish subject to such country's exclusive fishery management authority;

and there is no dispute as to the material facts with respect to the location or activity of such vessel at the time of such seizure,

¹ 22 U.S.C. §§ 1971-80. Public Law 90-482 amended the Act of August 27, 1954 and provided that this Act may be cited as the Fisherman's Protective Act of 1967.

² Sec. 403(a) of the Fishery Conservation and Management Act of 1976 (Public Law 94-265) amended and restated Sec. 2. The amendments made by Sec. 403(a) became effective on March 1, 1977. Sec. 2 formerly read as follows:

"Sec. 2. In any case where—

(a) a vessel of the United States is seized by a foreign country on the basis of rights or claims in territorial waters or the high seas which are not recognized by the United States; and

(b) there is no dispute of material facts with respect to the location or activity of such vessel at the time of such seizure,

the Secretary of State shall as soon as practicable take such action as he deems appropriate to attend to the welfare of such vessel and its crew while it is held by such country to secure the release of such vessel and crew, and to immediately ascertain the amount of any fine, fee, or other direct charge which may be reimbursable under section 3(a)."

the Secretary of State shall immediately take such steps as are necessary—

- (i) for the protection of such vessel and for the health and welfare of its crew;
- (ii) to secure the release of such vessel and its crew; and
- (iii) to determine the amount of any fine, license, fee, registration fee, or other direct charge reimbursable under section 3 (a) of this Act.

SEC. 3.³ (a) In any case where a vessel of the United States is seized by a foreign country under the conditions of section 2 and a fine, license fee, registration fee, or any other direct charge must be paid in order to secure the prompt release of the vessel and crew, the owners of the vessel shall be reimbursed by the Secretary of the Treasury in the amount certified to him by the Secretary of State as being the amount of the fine, license fee, registration fee, or any other direct charge actually paid. For purposes of this section, the term 'other direct charge' means any levy, however characterized or computed (including, but not limited to, any computation based on the value of a vessel or the value of fish or other property on board a vessel), which is imposed in addition to any fine, license fee, or registration fee.⁴ Any reimbursement under this section shall be made from the Fishermen's Protective Fund established pursuant to section 9.

(b) The Secretary of State shall make a certification under subsection (a) of this section as soon as possible after he is notified pursuant to section 2(b) of the amounts of the fines, fees, and other direct charges which were paid by the owners to secure the release of their vessel and crew. The amount of reimbursement made by the Secretary of the Treasury to the owners of any vessel under subsection (a) of this section shall constitute a lien on the vessel which may be recovered in proceedings by libel in rem in the district court of the United States for any district within which the vessel may be. Any such lien shall terminate on the ninetieth day after the date on which the Secretary of Treasury reimburses the owners under this section unless before such ninetieth day the United States initiates action to enforce the lien.

SEC. 4. The provisions of this Act shall not apply with respect to a seizure made by a country at war with the United States or a seizure made in accordance with the provisions of any fishery convention or treaty to which the United States is a party.

SEC. 5.⁵ (a) The Secretary of State shall—

³ Public Law 90-482 amended section 3 by adding the words "license fee, registration fee, or any other direct charge." Public Law 92-569 made former section 3 subsection (a), added the last sentence, and added a new subsection (b).

⁴ The words to this point beginning with "For purposes of this section," were added by Sec. 403(a)(2) of the Fishery Conservation and Management Act of 1976 (Public Law 94-265). This amendment shall apply to seizures of vessels of the United States occurring on or after December 31, 1974.

⁵ Public Law 92-569 amended section 5 to read as above. Prior to that amendment it read as follows: "The Secretary of State shall take such action as he may deem appropriate to make and collect claims against a foreign country for amounts expended by the United States under the provisions of this Act (including payments made pursuant to section 7) because of the seizure of a vessel of the United States by such country. If such country fails or refuses to make payment in full within one hundred and twenty days after receiving notice of any such claim of the United States, the Secretary of State shall withhold, pending such payment, an amount equal to such unpaid claim from any funds programmed for the current fiscal year for assistance to the government of such country (as shown in materials concerning such fiscal year presented to the Congress in connection with its consideration of amendments to the Foreign Assistance Act of 1961). Amounts withheld under this section shall not constitute satisfaction of any such claim of the United States against each foreign country," as amended by Public Law 90-482.

(1) immediately notify a foreign country of—

(A) any reimbursement made by the Secretary of the Treasury under section 3 as a result of the seizure of a vessel of the United States by such country.

(B) any payment made pursuant to section 7 in connection with such seizure, and

(2) take such action as he deems appropriate to make and collect claims against such foreign country for the amounts so reimbursed and payments so made.

(b) If a foreign country fails or refuses to make payment in full on any claim made under subsection (a) (2) of this section within one hundred and twenty days after the date on which such country is notified pursuant to subsection (a) (1) of this section, the Secretary of State shall transfer an amount equal to such unpaid claim or unpaid portion thereof from any funds appropriated by Congress and programed for the current fiscal year for assistance to the government of such country under the Foreign Assistance Act of 1961 unless the President certifies to the Congress that it is in the national interest not to do so in the particular instance (and if such funds are insufficient to cover such claim, transfer shall be made from any funds so appropriated and programed for the next and any succeeding fiscal year) to (1) the Fishermen's Protective Fund established pursuant to section 9 if the amount is transferred with respect to an unpaid claim for a reimbursement made under section 3, or (2) the separate account established in the Treasury of the United States pursuant to section 7(c) if the amount is transferred with respect to an unpaid claim for a payment made under section 7(a). Amounts transferred under this section shall not constitute satisfaction of any such claim of the United States against such foreign country.

SEC. 6. There are authorized to be appropriated such amounts as may be necessary to carry out the provisions of this Act.

SEC. 7.⁶ (a) The Secretary, upon receipt of an application filed with him at any time after the effective date of this section by the owner of any vessel of the United States which is documented or certificated as a commercial fishing vessel, shall enter into an agreement with such owner subject to the provisions of this section and such other terms and conditions as the Secretary deems appropriate. Such agreement shall provide that, if said vessel is seized by a foreign country and detained under the conditions of section 2 or this Act, the Secretary shall guarantee—

(1) the owner of such vessel for all actual costs, except those covered by section 3 of this Act, incurred by the owner during the seizure and detention period and as a direct result thereof, as determined by the Secretary, resulting (A) from any damage to, or destruction of, such vessel, or its fishing gear or other equipment, (B) from the loss of confiscation of such vessel, gear, or equipment, or (C) from dockage fees or utilities;

(2) the owner of such vessel and its crew for the market value of fish caught before seizure of such vessel and confiscated or spoiled during the period of detention: and

⁶ Public Law 90-482 added section 7 of this act. Public Law 92-569 added the next to last sentence in subsection (c).

(3) the owner of such vessel and its crew for not to exceed 50 per centum of the gross income lost as a direct result of such seizure and detention, as determined by the Secretary of the Interior, based on the value of the average catch per day's fishing during the three most recent calendar years immediately preceding such seizure and detention of the vessel seized, or, if such experience is not available, then of all commercial fishing vessel of the United States engaged in the same fishery as that of the type and size of the seized vessel.

(b) Payments made by the Secretary under paragraphs (2) and (3) of subsection (a) of this section shall be distributed by the Secretary in accordance with the usual practices and procedures of the particular segment of the United States commercial fishing industry to which the seized vessel belongs relative to the sale of fish caught and the distribution of the proceeds of such sale.

(c) The Secretary shall from time to time establish by regulation fees which shall be paid by the owners of vessels entering into agreements under this section. Such fees shall be adequate (1) to recover the costs of administering this section, and (2) to cover a reasonable portion of any payments made by the Secretary under this section. The amount fixed by the Secretary shall be predicated upon at least 33 $\frac{1}{3}$ per centum of the contribution by the Government. All fees collected by the Secretary shall be credited to a separate account established in the Treasury of the United States which shall remain available without fiscal year limitation to carry out the provisions of this section. If a transfer of funds is made to the separate account under section 5 (b) (2) with respect to an unpaid claim and such claim is later paid, the amount so paid shall be covered into the Treasury as miscellaneous receipts.⁷ All payments under this section shall be made first out of such fees so long as they are available, and thereafter out of funds which are hereby authorized to be appropriated to such account to carry out the provisions of this section.

(d) All determinations made under this section shall be final. No payment under this section shall be made with respect to any losses covered by any policy of insurance or other provision of law.

(e)⁸ The provisions of this section shall be effective until October 1, 1977.⁹

(f) For the purposes of this section—

(1)¹⁰ the term "Secretary" means the Secretary of Commerce.

(2) the term "owner" includes any charterer of a commercial fishing vessel.

SEC. 8.¹¹ (a) When the Secretary of Commerce determines that nationals of a foreign country, directly or indirectly, are conducting fishing operations in a manner or under circumstances which diminish the effectiveness of an international fishery conservation program,

⁷ Preceding sentence added by section 4 of Public Law 92-569 (86 Stat. 1183).

⁸ As amended and restated by Public Law 92-594 (86 Stat. 1313).

⁹ Sec. 3(17) of the Fiscal Year Adjustment Act (Public Law 94-273) substituted "October" in lieu of "July".

¹⁰ Public Law 92-594 substituted Secretary of Commerce for Secretary of the Interior.

¹¹ Public Law 92-219 added section 8 to this Act.

the Secretary of Commerce shall certify such fact to the President. Upon receipt of such certification, the President may direct the Secretary of the Treasury to prohibit the bringing or the importation into the United States of fish products of the offending country for such duration as he determines appropriate and to the extent that such prohibition is sanctioned by the General Agreement on Tariffs and Trade.

(b) Within sixty days following certification by the Secretary of Commerce, the President shall notify the Congress of any action taken by him pursuant to such certification. In the event the President fails to direct the Secretary of the Treasury to prohibit the importation of fish products of the offending country, or if such prohibition does not cover all fish products of the offending country, the President shall inform the Congress of the reasons therefore.

(c) It shall be unlawful for any person subject to the jurisdiction of the United States knowingly to bring or import into, or cause to be imported into, the United States any fish products prohibited by the Secretary of the Treasury pursuant to this section.

(d)(1) Any person violating the provisions of this section shall be fined not more than \$10,000 for the first violation, and not more than \$25,000 for each subsequent violation.

(2) All fish products brought or imported into the United States in violation of this section, or the monetary value thereof, may be forfeited.

(3) All provisions of law relating to the seizure, judicial forfeiture, and condemnation of a cargo for violation of the customs laws, the disposition of such cargo or the proceeds from the sale thereof, and the remission or mitigation of such forfeitures shall apply to seizures and forfeitures incurred, or alleged to have been incurred, under the provisions of this section, insofar as such provisions of law are applicable and not inconsistent with this section.

(c)(1) Enforcement of the provisions of this section prohibiting the bringing or importation of fish products into the United States shall be the responsibility of the Secretary of the Treasury.

(2) The judges of the United States district courts, and United States commissioners may, within their respective jurisdictions, upon proper oath or affirmation showing probable cause, issue such warrants or other process as may be required for enforcement of this Act and regulations issued thereunder.

(3) Any person authorized to carry out enforcement activities hereunder shall have the power to execute any warrant or process issued by any officer or court of competent jurisdiction for the enforcement of this section.

(4) Such person so authorized shall have the power—

(A) with or without a warrant or other process, to arrest any persons subject to the jurisdiction of the United States committing in his presence or view a violation of this section or the regulations issued thereunder;

(B) with or without a warrant or other process, to search any vessel subject to the jurisdiction of the United States, and, if as

a result of such search he has reasonable cause to believe that such vessel or any person on board is engaging in operations in violation of this section or the regulations issued thereunder, then to arrest such person.

(5) Such person so authorized, may seize, whenever and wherever lawfully found, all fish products brought or imported into the United States in violation of this section or the regulations issued thereunder. Any fish products so seized may be disposed of pursuant to the order of a court of competent jurisdiction, or, if perishable, in a manner prescribed by regulations promulgated by the Secretary of the Treasury after consultation with the Secretary of Health, Education, and Welfare.

(f) The Secretary of the Treasury is authorized to prescribe such regulations as he determines necessary to carry out the provisions of this section.

(g) As used in this section—

(1) The term "person" means any individual, partnership, corporation, or association.

(2) The term "United States," when used in a geographical sense means the continental United States, Alaska, Hawaii, Puerto Rico, and the United States Virgin Islands.

(3) The term "international fishery conservation program" means any ban, restriction, regulation, or other measure in force pursuant to a multilateral agreement to which the United States is a signatory party, the purpose of which is to conserve or protect the living resources of the sea.

(4) The term "fish products" means fish and marine mammals and all products thereof taken by fishing vessels of an offending country whether or not packed, processed, or otherwise prepared for export in such country or within the jurisdiction thereof.

SEC. 9.¹² There is created a Fishermen's Protective Fund which shall be used by the Secretary of the Treasury to reimburse owners of vessels for amounts certified to him by the Secretary of State under section 3. The amount of any claim or portion thereof collected by the Secretary of State from any foreign country pursuant to section 5(a) shall be deposited in the fund and shall be available for the purpose of reimbursing vessel owners under section 3; except that if a transfer to the fund was made pursuant to section 5(b)(1) with respect to any such claim, an amount from the fund equal to the amount so collected shall be covered into the Treasury as miscellaneous

¹² Section 9 added by section 5 of Public Law 92-569. Executive Order 11772, March 21, 1974, 39 F.R. 10879, read as follows:

"DELEGATING CERTAIN AUTHORITY OF THE PRESIDENT TO THE SECRETARY OF STATE

"By virtue of the authority vested in me by the Fishermen's Protective Act of 1971, as amended (22 U.S.C. 1971, et seq.), and Section 301 of Title 3 of the United States Code, and as President of the United States of America, the Secretary of State is hereby designated and empowered to exercise, without ratification, or other action of the President, the function conferred upon the President by Section 5(b) of the Fishermen's Protective Act of 1967, as amended, of certifying to the Congress that it is in the national interest not to transfer to the Fishermen's Protective Fund or to the separate account established under the Act, pursuant to that Section, amounts appropriated by the Congress and programmed for assistance under the Foreign Assistance Act of 1961."

receipts. There is authorized to be appropriated to the fund (1) the sum of \$3,000,000 to provide initial capital, and (2) such additional sums as may be necessary from time to time to supplement the fund in order to meet the requirements of the fund.

SEC. 10.¹³ (a) After July 1, 1977, the Secretary may make a loan to the owner or operator of any vessel of the United States which is documented or certified as a commercial fishing vessel if—

(1) he receives an application for a loan under this section after such date;

(2) he reasonably determines that such vessel, or its fishing gear, was lost, damaged, or destroyed by any vessel (or its crew or fishing gear) of a foreign nation operating within the fishery conservation zone established by sections 101 and 102 of the Fishery Conservation and Management Act of 1976 (16 U.S.C. 1811); and

(3) the amount of such loss, damage, or destruction exceeds \$2,000.

Any such loan—

(A) may be for an amount not exceeding the value of such loss, damage, or destruction;

(B) shall be conditional upon assignment to the Secretary of any right to recover for such loss, damage, or destruction;

(C) shall bear interest at a rate not to exceed 3½ per centum per annum; and

(D) shall be subject to such terms and conditions as the Secretary deems necessary and appropriate for the purposes of this section.

The Secretary shall use the Fishermen's Protective Fund created under section 9 for the amounts of any loan made under this section. Loans may be made for any loss, damage, or destruction occurring after July 1, 1976, for which claims are not already substantially resolved.

(b) The Secretary, in conjunction with other agencies or departments, shall investigate each incident of loss, damage, or destruction for which a loan was made under this section. If he determines that the owner or operator who received the loan was not at fault, the Secretary shall cancel repayment of such loan and refund to such owner or operator any principal and interest payments thereon made prior to the date of such cancellation. If he determines that the owner or operator who received the loan was at fault, the loan shall not continue for its term and shall be repaid within a reasonable time as determined by the Secretary.

(c) The Secretary, with the assistance of the Attorney General, the Secretary of State, and the claimant, shall take appropriate action, pursuant to the provisions of title 28, United States Code, to collect on any right assigned to him under subsection (a). Amounts collected under this subsection shall—

(1) if such loan was canceled pursuant to subsection (b), be paid into the Fishermen's Protective Fund created under section 9, to the extent of the amount so canceled;

¹³ Sec. 10 was added by Public Law 95-194 (91 Stat. 1413).

(2) if not so canceled, be applied to the repayment of such loan; or

(3) to the extent not used pursuant to paragraph (1) or (2), paid to the owner or operator who assigned such claim.

(d) For the purposes of this section, the term "Secretary" means the Secretary of Commerce.

(e) The Secretary may from time to time establish by regulation fees to recover the cost of administering this section. Such fees shall be paid by the owner or operator making claims under this section.

NOTE.—Public Law 92-569 (October 26, 1972) also provided:

"SEC. 6. The amendments made by this Act shall apply with respect to seizures of vessels of the United States occurring on or after the date of the enactment of this Act; except that reimbursements under section 3 of the Fishermen's Protective Act of 1967 (as in effect before such date of enactment) may be made from the fund established by the amendment made by section 5 of this Act with respect to any seizure of a vessel occurring before such date of enactment and after December 31, 1970, if no reimbursement was made before such date of enactment."

8. Endangered Species Act of 1973 as amended

Partial text of Public Law 93-205 [S. 1983]. 87 Stat. 884; 16 U.S.C. 1531-1543 approved December 28, 1973; as amended by Public Law 94-359 [S. 229], 90 Stat. 911, approved July 12, 1976

AN ACT To provide for the conservation of endangered and threatened species of fish, wildlife, and plants, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Endangered Species Act of 1973".

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FINDINGS, PURPOSES, AND POLICY

SEC. 2. (a) FINDINGS.—The Congress finds and declares that—

(1) various species of fish, wildlife, and plants in the United States have been rendered extinct as a consequence of economic growth and development untempered by adequate concern and conservation;

(2) other species of fish, wildlife, and plants have been so depleted in numbers that they are in danger of or threatened with extinction;

(3) these species of fish, wildlife, and plants are of esthetic, ecological, educational, historical, recreational, and scientific value to the Nation and its people;

(4) the United States has pledged itself as a sovereign state in the international community to conserve to the extent practicable the various species of fish or wildlife and plants facing extinction, pursuant to—

(A) migratory bird treaties with Canada and Mexico;

(B) the Migratory and Endangered Bird Treaty with Japan;

(C) the Convention on Nature Protection and Wildlife Preservation in the Western Hemisphere;

(D) the International Convention for the Northwest Atlantic Fisheries:

(E) the International Convention for the High Seas Fisheries of the North Pacific Ocean;

(F) the Convention on International Trade in Endangered Species of Wild Fauna and Flora; and

(G) other international agreements.

(5) encouraging the States and other interested parties, through Federal financial assistance and a system of incentives, to develop and maintain conservation programs which meet national and international standards is a key to meeting the Nation's international commitments and to better safeguarding, for the benefit of all citizens, the Nation's heritage in fish and wildlife.

(b) PURPOSES.—The purposes of this Act are to provide a means whereby the ecosystems upon which endangered species and threatened species depend may be conserved, to provide a program for the conservation of such endangered species and threatened species, and to take such steps as may be appropriate to achieve the purposes of the treaties and conventions set forth in subsection (a) of this section.

(c) POLICY.—It is further declared to be the policy of Congress that all Federal departments and agencies shall seek to conserve endangered species and threatened species and shall utilize their authorities in furtherance of the purposes of this Act.

DEFINITIONS

SEC. 3. For the purposes of this Act—

(1) The term "commercial activity" means all activities of industry and trade, including, but not limited to, the buying or selling of commodities and activities conducted for the purpose of facilitating such buying and selling: *Provided, however,* That it does not include exhibition of commodities by museums or similar cultural or historical organizations.¹

(2) The terms "conserve", "conserving", and "conservation" mean to use and the use of all methods and procedures which are necessary to bring any endangered species or threatened species to the point at which the measures provided pursuant to this Act are no longer necessary. Such methods and procedures include, but are not limited to, all activities associated with scientific resources management such as research, census, law enforcement, habitat acquisition and maintenance, propagation, live trapping, and transplantation, and, in the extraordinary case where population pressures within a given ecosystem cannot be otherwise relieved, may include regulated taking.

(3) The term "Convention" means the Convention on International Trade in Endangered Species of Wild Fauna and Flora, signed on March 3, 1973, and the appendices thereto.

(4) The term "endangered species" means any species which is in danger of extinction throughout all or a significant portion of its range other than a species of the Class Insecta determined by the Secretary to constitute a pest whose protection under the provisions of this Act would present an overwhelming and overriding risk to man.

(5) The term "fish or wildlife" means any member of the animal kingdom, including without limitation any mammal, fish, bird (including any migratory, nonmigratory, or endangered bird

¹ Sec. 5 of Public Law 94-359 added the words to this point beginning with " : *Provided, however,*".

for which protection is also afforded by treaty or other international agreement), amphibian, reptile, mollusk, crustacean, arthropod or other invertebrate, and includes any part, product, egg, or offspring thereof, or the dead body or parts thereof.

(6) The term "foreign commerce" includes, among other things, any transaction—

(A) between persons within one foreign country;

(B) between persons in two or more foreign countries;

(C) between a person within the United States and a person in a foreign country; or

(D) between persons within the United States, where the fish and wildlife in question are moving in any country or countries outside the United States.

(7) The term "import" means to land on, bring into, or introduce into, or attempt to land on, bring into, or introduce into, any place subject to the jurisdiction of the United States, whether or not such landing, bringing, or introduction constitutes an importation within the meaning of the customs laws of the United States.

(8) The term "person" means an individual, corporation, partnership, trust, association, or any other private entity, or any officer, employee, agent, department, or instrumentality of the Federal Government, of any State or political subdivision thereof, or of any foreign government.

(9) The term "plant" means any member of the plant kingdom, including seeds, roots and other parts thereof.

(10) The term "Secretary" means, except as otherwise herein provided, the Secretary of the Interior or the Secretary of Commerce as program responsibilities are vested pursuant to the provisions of Reorganization Plan Numbered 4 of 1970; except that with respect to the enforcement of the provisions of this Act and the Convention which pertain to the importation or exportation of terrestrial plants, the term means the Secretary of Agriculture.

(11) The term "species" includes any subspecies of fish or wildlife or plants and any other group of fish or wildlife of the same species or smaller taxa in common spatial arrangement that interbreed when mature.

(12) The term "State" means any of the several States, the District of Columbia, the Commonwealth of Puerto Rico, American Samoa, the Virgin Islands, Guam, and the Trust Territory of the Pacific Islands.

(13) The term "State agency" means the State agency, department, board, commission, or other governmental entity which is responsible for the management and conservation of fish or wildlife resources within a State.

(14) The term "take" means to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect or to attempt to engage in any such conduct.

(15) The term "threatened species" means any species which is likely to become an endangered species within the foreseeable future throughout all or a significant portion of its range.

(16) The term "United States" when used in a geographical context, includes all States.

INTERNATIONAL COOPERATION

SEC. 3. (a) FINANCIAL ASSISTANCE.—As a demonstration of the commitment of the United States to the worldwide protection of endangered species and threatened species, the President may, subject to the provisions of section 1415 of the Supplemental Appropriation Act, 1953 (31 U.S.C. 724), use foreign currencies accruing to the United State Government under the Agricultural Trade Development and Assistance Act of 1954 or any other law to provide to any foreign country (with its consent) assistance in the development and management of programs in that country which the Secretary determines to be necessary or useful for the conservation of any endangered species or threatened species listed by the Secretary pursuant to section 4 of this Act. The President shall provide assistance (which includes, but is not limited to, the acquisition, by lease or otherwise, of lands, waters, or interests therein) to foreign countries under this section under such terms and conditions as he deems appropriate. Whenever foreign currencies are available for the provision of assistance under this section, such currencies shall be used in preference to funds appropriated under the authority of section 15 of this Act.

(b) ENCOURAGEMENT OF FOREIGN PROGRAMS.—In order to carry out further the provisions of this Act, the Secretary, through the Secretary of State, shall encourage—

(1) foreign countries to provide for the conservation of fish or wildlife including endangered species and threatened species listed pursuant to section 4 of this Act;

(2) the entering into of bilateral or multilateral agreements with foreign countries to provide for such conservation; and

(3) foreign persons who directly or indirectly take fish or wildlife in foreign countries or on the high seas for importation into the United States for commercial or other purposes to develop and carry out with such assistance as he may provide, conservation practices designed to enhance such fish or wildlife and their habitat.

(c) PERSONNEL.—After consultation with the Secretary of State, the Secretary may—

(1) assign or otherwise make available any officer or employee of his department for the purpose of cooperating with foreign countries and international organizations in developing personnel resources and programs which promote the conservation of fish or wildlife; and

(2) conduct or provide financial assistance for the educational training of foreign personnel, in this country or abroad, in fish, wildlife, or plant management, research and law enforcement and to render professional assistance abroad in such matters.

(d) INVESTIGATIONS.—After consultation with the Secretary of State and the Secretary of the Treasury, as appropriate, the Secretary may conduct or cause to be conducted such law enforcement investigations and research abroad as he deems necessary to carry out the purposes of this Act.

(e) CONVENTION IMPLEMENTATION.—The President is authorized and directed to designate appropriate agencies to act as the Management Authority or Authorities and the Scientific Authority or Author-

ities pursuant to the Convention. The agencies so designated shall thereafter be authorized to do all things assigned to them under the Convention, including the issuance of permits and certificates. The agency designated by the President to communicate with other parties to the Convention and with the Secretariat shall also be empowered, where appropriate, in consultation with the State Department, to act on behalf of and represent the United States in all regards as required by the Convention. The President shall also designate those agencies which shall act on behalf of and represent the United States in all regards as required by the Convention on Natural Protection and Wildlife Preservation in the Western Hemisphere.

PROHIBITED ACTS

SEC. 9. (a) GENERAL.—(1) Except as provided in sections 6(g) (2) and 10 of this Act, with respect to any endangered species of fish or wildlife listed pursuant to section 4 of this Act it is unlawful for any person subject to the jurisdiction of the United States to—

(A) import any such species into, or export any such species from the United States;

(B) take any such species within the United States or the territorial sea of the United States;

(C) take any such species upon the high seas;

(D) possess, sell, deliver, carry, transport, or ship, by any means whatsoever, any such species taken in violation of subparagraphs (B) and (C);

(E) deliver, receive, carry, transport, or ship in interstate or foreign commerce, by any means whatsoever and in the course of a commercial activity, any such species;

(F) sell or offer for sale in interstate or foreign commerce any such species; or

(G) violate any regulation pertaining to such species or to any threatened species of fish or wildlife listed pursuant to section 4 of this Act and promulgated by the Secretary pursuant to authority provided by this Act.

(2) Except as provided in sections 6(g) (2) and 10 of this Act, with respect to any endangered species of plants listed pursuant to section 4 of this Act, it is unlawful for any person subject to the jurisdiction of the United States to—

(A) import any such species into, or export any such species from, the United States;

(B) deliver, receive, carry, transport, or ship in interstate or foreign commerce, by any means whatsoever and in the course of a commercial activity, any such species;

(C) sell or offer for sale in interstate or foreign commerce any such species; or

(D) violate any regulation pertaining to such species or to any threatened species of plants listed pursuant to section 4 of this Act and promulgated by the Secretary pursuant to authority provided by this Act.

(b) SPECIES HELD IN CAPTIVITY OR CONTROLLED ENVIRONMENT.—The provisions of this section shall not apply to any fish or wildlife held in captivity or in a controlled environment on the effective date of this Act if the purposes of such holding are not contrary to the purposes

of this Act; except that this subsection shall not apply in the case of any fish or wildlife held in the course of a commercial activity. With respect to any act prohibited by this section which occurs after a period of 180 days from the effective date of this Act, there shall be a rebuttable presumption that the fish or wildlife involved in such act was not held in captivity or in a controlled environment on such effective date.

(c) VIOLATION OF CONVENTION.—(1) It is unlawful for any person subject to the jurisdiction of the United States to engage in any trade in any specimens contrary to the provisions of the Convention, or to possess any specimens traded contrary to the provisions of the Convention, including the definitions of terms in article I thereof.

(2) Any importation into the United States of fish or wildlife shall, if—

(A) such fish or wildlife is not an endangered species listed pursuant to section 4 of this Act but is listed in Appendix II to the Convention,

(B) the taking and exportation of such fish or wildlife is not contrary to the provisions of the Convention and all other applicable requirements of the Convention have been satisfied,

(C) the applicable requirements of subsections (d), (e), and (f) of this section have been satisfied, and

(D) such importation is not made in the course of a commercial activity,

be presumed to be an importation not in violation of any provision of this Act or any regulation issued pursuant to this Act.

(d) IMPORTS AND EXPORTS.—(a) It is unlawful for any person to engage in business as an importer or exporter of fish or wildlife (other than shellfish and fishery products which (A) are not listed pursuant to section 4 of this Act as endangered species or threatened species, and (B) are imported for purposes of human or animal consumption or taken in waters under the jurisdiction of the United States or on the high seas for recreational purposes) or plants without first having obtained permission from the Secretary.

(2) Any person required to obtain permission under paragraph (1) of this subsection shall—

(A) keep such records as will fully and correctly disclose each importation or exportation of fish, wildlife, or plants made by him and the subsequent disposition made by him with respect to such fish, wildlife, or plants;

(B) at all reasonable times upon notice by a duly authorized representative of the Secretary, afford such representative access to his places of business, an opportunity to examine his inventory of imported fish, wildlife, or plants and the records required to be kept under subparagraph (A) of this paragraph, and to copy such records; and

(C) file such reports as the Secretary may require.

(3) The Secretary shall prescribe such regulations as are necessary and appropriate to carry out the purposes of this subsection.

(e) REPORTS.—It is unlawful for any person importing or exporting fish or wildlife (other than shellfish and fishery products which (1) are not listed pursuant to section 4 of this Act as endangered or threatened species, and (2) are imported for purposes of human or

animal consumption or taken in waters under the jurisdiction of the United States or on the high seas for recreational purposes) or plants to fail to file any declaration or report as the Secretary deems necessary to facilitate enforcement of this Act or to meet the obligations of the Convention.

(f) **DESIGNATION OF PORTS.**—(1) It is unlawful for any person subject to the jurisdiction of the United States to import into or export from the United States any fish or wildlife (other than shellfish and fishery products which (A) are not listed pursuant to section 4 of this Act as endangered species or threatened species, and (B) are imported for purposes of human or animal consumption or taken in waters under the jurisdiction of the United States or on the high seas for recreational purposes) or plants, except at a port or ports designated by the Secretary of the Interior. For the purpose of facilitating enforcement of this Act and reducing the costs thereof, the Secretary of the Interior, with approval of the Secretary of the Treasury and after notice and opportunity for public hearing, may, by regulation, designate ports and change such designations. The Secretary of the Interior, under such terms and conditions as he may prescribe, may permit the importation or exportation at nondesignated ports in the interest of the health or safety of the fish or wildlife or plants, or for other reasons if, in his discretion, he deems it appropriate and consistent with the purpose of this subsection.

(2) Any port designated by the Secretary of the Interior under the authority of section 4(d) of the Act of December 5, 1969 (16 U.S.C. 666cc-4(d)), shall, if such designation is in effect on the day before the date of the enactment of this Act, be deemed to be a port designated by the Secretary under paragraph (1) of this subsection until such time as the Secretary otherwise provides.

(g) **VIOLATIONS.**—It is unlawful for any person subject to the jurisdiction of the United States to attempt to commit, solicit another to commit, or cause to be committed, any offense defined in this section.

EXCEPTIONS

SEC. 10. (a) PERMITS.—The Secretary may permit, under such terms and conditions as he may prescribe, any act otherwise prohibited by section 9 of this Act for scientific purposes or to enhance the propagation or survival of the affected species.

(b) **HARDSHIP EXEMPTIONS.**—(1) If any person enters into a contract with respect to a species of fish, or wildlife or plant before the date of the publication in the Federal Register of notice of consideration of that species as an endangered species and the subsequent listing of that species as an endangered species pursuant to section 4 of this Act will cause undue economic hardship to such person under the contract, the Secretary, in order to minimize such hardship, may exempt such person from the application of section 9(a) of this Act to the extent the Secretary deems appropriate if such person applies to him for such exemption and includes with such application such information as the Secretary may require to prove hardship; except that (A) no such exemption shall be for a duration of more than one year from the date of publication in the Federal Register of notice of consideration of the species concerned, or shall apply to a quantity of fish

or wildlife or plants in excess of that specified by the Secretary; (B) the one-year period for those species of fish or wildlife listed by the Secretary as endangered prior to the effective date of this Act shall expire in accordance with the terms of section 3 of the Act of December 5, 1969 (83 Stat. 275); and (C) no such exemption may be granted for the importation or exportation of a specimen listed in Appendix I of the Convention which is to be used in a commercial activity.

(2) As used in this subsection, the term "undue economic hardship" shall include, but not be limited to:

(A) substantial economic loss resulting from inability caused by this Act to perform contracts with respect to species of fish and wildlife entered into prior to the date of publication in the Federal Register of a notice of consideration of such species as an endangered species;

(B) substantial economic loss to persons who, for the year prior to the notice of consideration of such species as an endangered species, derived a substantial portion of their income from the lawful taking of any listed species, which taking would be made unlawful under this Act; or

(C) curtailment of subsistence taking made unlawful under this Act by persons (i) not reasonably able to secure other sources of subsistence; and (ii) dependent to a substantial extent upon hunting and fishing for subsistence; and (iii) who must engage in such curtailed taking for subsistence purposes.

(3) The Secretary may make further requirements for a showing of undue economic hardship as he deems fit. Exceptions granted under this section may be limited by the Secretary in his discretion as to time, area, or other factor of applicability.

(c) NOTICE AND REVIEW.—The Secretary shall publish notice in the Federal Register of each application for an exemption or permit which is made under this section.² Each notice shall invite the submission from interested parties, within thirty days after the date of notice, written data, views, or arguments with respect to the application: except that such thirty-day period may be waived by the Secretary in an emergency situation where the health or life of an endangered animal is threatened and no reasonable alternative is available to the applicant, but notice of any such waiver shall be published by the Secretary in the Federal Register within ten days following the issuance of the exemption or permit.³ Information received by the Secretary as a part of any application shall be available to the public as a matter of public record at every stage of the proceeding.

(d) PERMIT AND EXEMPTION POLICY.—The Secretary may grant exceptions under subsections (a) and (b) of this section only if he finds and publishes his finding in the Federal Register that (1) such exceptions were applied for in good faith, (2) if granted and exercised will not operate to the disadvantage of such endangered species, and (3) will be consistent with the purposes and policy set forth in section 2 of this Act.

(e) ALASKA NATIVES.—(1) Except as provided in paragraph (4) of this subsection the provisions of this Act shall not apply with respect to the taking of any endangered species or threatened species, or the importation of any such species taken pursuant to this section, by—

² Sec. 3(1) of Public Law 94-359 substituted the word "section" in lieu of "subsection".

³ Sec. 3(2) of Public Law 94-359 added the words to this point beginning with "": except that such thirty day period".

(A) any Indian, Aleut, or Eskimo who is an Alaskan Native who resides in Alaska; or

(B) any non-native permanent resident of an Alaskan native village;

if such taking is primarily for subsistence purposes. Non-edible by-products of species taken pursuant to this section may be sold in interstate commerce when made into authentic native articles of handicrafts and clothing; except that the provisions of this subsection shall not apply to any non-native resident of an Alaskan native village found by the Secretary to be not primarily dependent upon the taking of fish and wildlife for consumption or for the creation and sale of authentic native articles of handicrafts and clothing.

(2) Any taking under this subsection may not be accomplished in a wasteful manner.

(3) As used in this subsection—

(i) The term “subsistence” includes selling any edible portion of fish or wildlife in native villages and towns in Alaska for native consumption within native villages or towns; and

(ii) The term “authentic native articles of handicrafts and clothing” means items composed wholly or in some significant respect of natural materials, and which are produced, decorated, or fashioned in the exercise of traditional native handicrafts without the use of pantographs, multiple carvers, or other mass copying devices. Traditional native handicrafts include, but are not limited to, weaving, carving, stitching, sewing, lacking, beading, drawing, and painting.

(4) Notwithstanding the provisions of paragraph (1) of this subsection, whenever the Secretary determines that any species of fish or wildlife which is subject to taking under the provisions of this subsection is an endangered species or threatened species, and that such taking materially and negatively affects the threatened or endangered species, he may prescribe regulations upon the taking of such species by any such Indian, Aleut, Eskimo, or non-Native Alaskan resident of an Alaskan native village. Such regulations may be established with reference to species, geographical description of the area included, the season for taking, or any other factors related to the reason for establishing such regulations and consistent with the policy of this Act. Such regulations shall be prescribed after a notice and hearings in the affected judicial districts of Alaska and as otherwise required by section 103 of the Marine Mammal Protection Act of 1972, and shall be removed as soon as the Secretary determines that the need for their impositions has disappeared.

(f)⁴ (1) As used in this subsection—

(A) The term “pre-Act endangered species” means—

(i) any sperm whale oil, including derivatives thereof, which was lawfully held within the United States on December 28, 1973, in the course of a commercial activity; or

(ii) any finished scrimshaw product, if such product or the raw material for such product was lawfully held within the United States on December 28, 1973, in the course of a commercial activity.

⁴ Subsection (f) was added by Sec. 2 of Public Law 94-350.

(B) The term "scrimshaw product" means any art form which involves the etching or engraving of designs upon, or the carving of figures, patterns, or designs from, any bone or tooth of any marine mammal of the order Cetacea.

(2) The Secretary, pursuant to the provisions of this subsection, may exempt, if such exemption is not in violation of the Convention, any pre-Act endangered species part from one or more of the following prohibitions:

(A) The prohibition on exportation from the United States set forth in section 9(a) (1) (A) of this Act.

(B) Any prohibition set forth in section 9(a) (1) (E) or (F) of this Act.

(3) Any person seeking an exemption described in paragraph (2) of this subsection shall make application therefor to the Secretary in such form and manner as he shall prescribe, but no such application may be considered by the Secretary unless the application—

(A) is received by the Secretary before the close of the one-year period beginning on the date on which regulations promulgated by the Secretary to carry out this subsection first take effect;

(B) contains a complete and detailed inventory of all pre-Act endangered species parts for which the applicant seeks exemption;

(C) is accompanied by such documentation as the Secretary may require to prove that any endangered species part or product claimed by the applicant to be a pre-Act endangered species part is in fact such a part; and

(D) contains such other information as the Secretary deems necessary and appropriate to carry out the purposes of this subsection.

(4) If the Secretary approves any application for exemption made under this subsection, he shall issue to the applicant a certificate of exemption which shall specify—

(A) any prohibition in section 9(a) of this Act which is exempted;

(B) the pre-Act endangered species parts to which the exemption applies;

(C) the period of time during which the exemption is in effect, but no exemption made under this subsection shall have force and effect after the close of the three-year period beginning on the date of issuance of the certificate; and

(D) any term or condition prescribed pursuant to paragraph (5) (A) or (B), or both, which the Secretary deems necessary or appropriate.

(5) The Secretary shall prescribe such regulations as he deems necessary and appropriate to carry out the purposes of this subsection. Such regulations may set forth—

(A) terms and conditions which may be imposed on applicants for exemptions under this subsection (including, but not limited to, requirements that applicants register inventories, keep complete sales records, permit duly authorized agents of the Secretary to inspect such inventories and records, and periodically file appropriate reports with the Secretary); and

(B) terms and conditions which may be imposed on any subsequent purchaser of any pre-Act endangered species part covered by an exemption granted under this subsection;

to insure that any such part so exempted is adequately accounted for and not disposed of contrary to the provisions of this Act. No regulation prescribed by the Secretary to carry out the purposes of this subsection shall be subject to section 4(f) (2) (A) (i) of this Act.

(6) (A) Any contract for the sale of pre-Act endangered species parts which is entered into by the Administrator of General Services prior to the effective date of this subsection and pursuant to the notice published in the Federal Register on January 9, 1973, shall not be rendered invalid by virtue of the fact that fulfillment of such contract may be prohibited under section 9(a) (1) (F).

(B) In the event that this paragraph is held invalid, the validity of the remainder of the Act, including the remainder of this subsection, shall not be affected.

(7) Nothing in this subsection shall be construed to—

(A) exonerate any person from any act committed in violation of paragraphs (1) (A), (1) (E), or (1) (F) of section 9(a) prior to the date of enactment of this subsection; or

(B) immunize any person from prosecution for any such act.

(g)⁵ In connection with any action alleging a violation of section 9, any person claiming the benefit of any exemption or permit under this Act shall have the burden of proving that the exemption or permit is applicable, has been granted, and was valid and in force at the time of the alleged violation.

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ENDANGERED PLANTS

SEC. 12. The Secretary of the Smithsonian Institution, in conjunction with other affected agencies, is authorized and directed to review (1) species of plants which are now or may become endangered or threatened and (2) methods of adequately conserving such species, and to report to Congress, within one year after the date of the enactment of this Act, the results of such review including recommendations for new legislation or the amendment of existing legislation.

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⁵ Subsection (g) was added by Sec. 2 of Public Law 94-359.

9. Marine Mammal Protection Act of 1972¹

Partial text of Public Law 92-522 [H.R. 10420], 86 Stat. 1027, approved October 21, 1972, as amended by Public Law 93-205 [S. 1983], 87 Stat. 884, approved December 28, 1973; and by Public Law 95-136 [S. 1522], 91 Stat. 1167, approved October 18, 1977

AN ACT To protect marine mammals; to establish a Marine Mammal Commission; and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act, with the following table of contents, may be cited as the "Marine Mammal Protection Act of 1972".

* * * * *

FINDINGS AND DECLARATION OF POLICY

SEC. 2. The Congress finds that—

(1) certain species and population stocks of marine mammals are, or may be, in danger of extinction or depletion as a result of man's activities;

(2) such species and population stocks should not be permitted to diminish beyond the point at which they cease to be a significant functioning element in the ecosystem of which they are a part, and, consistent with this major objective, they should not be permitted to diminish below their optimum sustainable population. Further measures should be immediately taken to replenish any species or population stock which has already diminished below that population. In particular, efforts should be made to protect the rookeries, mating grounds, and areas of similar significance for each species of marine mammal from the adverse effect of man's actions;

(3) there is inadequate knowledge of the ecology and population dynamics of such marine mammals and of the factors which bear upon their ability to reproduce themselves successfully;

(4) negotiations should be undertaken immediately to encourage the development of international arrangements for research on, and conservation of, all marine mammals;

(5) marine mammals and marine mammal products either—

(A) move in interstate commerce, or

(B) affect the balance of marine ecosystems in a manner which is important to other animals and animal products which move in interstate commerce,

and that the protection and conservation of marine mammals is therefore necessary to insure the continuing availability of those products which move in interstate commerce; and

¹ 16 U.S.C. 1361-1407.

(6) marine mammals have proven themselves to be resources of great international significance, esthetic and recreational as well as economic, and it is the sense of the Congress that they should be protected and encouraged to develop to the greatest extent feasible commensurate with sound policies of resource management and that the primary objective of their management should be to maintain the health and stability of the marine ecosystem. Whenever consistent with this primary objective, it should be the goal to obtain an optimum sustainable population keeping in mind the optimum carrying capacity of the habitat.

* * * * *

TITLE I—CONSERVATION AND PROTECTION OF MARINE MAMMALS

MORATORIUM AND EXCEPTIONS

SEC. 101. (a) There shall be a moratorium on the taking and importation of marine mammals and marine mammal products, commencing on the effective date of this Act, during which time no permit may be issued for the taking of any marine mammal and no marine mammal or marine mammal product may be imported into the United States except in the following cases:

(1) Permits may be issued by the Secretary for taking and importation for purposes of scientific research and for public display if—

(A) the taking proposed in the application for any such permit, or

(B) the importation proposed to be made, is first reviewed by the Marine Mammal Commission and the Committee of Scientific Advisors on Marine Mammals established under title II of this Act. The Commission and Committee shall recommend any proposed taking or importation which is consistent with the purposes and policies of section 2 of this Act. The Secretary shall, if he grants approval for importation, issue to the importer concerned a certificate to that effect which shall be in such form as the Secretary of the Treasury prescribes and such importation may be made upon presentation of the certificate to the customs officer concerned.

(2) During the twenty-four calendar months initially following the date of the enactment of this Act, the taking of marine mammals incidental to the course of commercial fishing operations shall be permitted, and shall not be subject to the provisions of sections 103 and 104 of this title: *Provided*, That such taking conforms to such conditions and regulations as the Secretary is authorized and directed to impose pursuant to section 111 hereof to insure that those techniques and equipment are used which will produce the least practicable hazard to marine mammals in such commercial fishing operations. Subsequent to such twenty-four months, marine mammals may be taken incidentally in the course of commercial fishing operations and permits may be issued thereof pursuant to section 104 of this title, subject to regulations

prescribed by the Secretary in accordance with section 103 hereof. In any event it shall be the immediate goal that the incidental kill or incidental serious injury of marine mammals permitted in the course of commercial fishing operations be reduced to insignificant levels approaching a zero mortality and serious injury rate. The Secretary shall request the Committee on Scientific Advisors on Marine Mammals to prepare for public dissemination detailed estimates of the numbers of mammals killed or seriously injured under the existing commercial fishing technology and under the technology which shall be required subsequent to such twenty-four-month period. The Secretary of the Treasury shall ban the importation of commercial fish or products from fish which have been caught with commercial fishing technology which results in the incidental kill or incidental serious injury of ocean mammals in excess of United States standards. The Secretary shall insist on reasonable proof from the government of any nation from which fish or fish products will be exported to the United States of the effects on ocean mammals of the commercial fishing technology in use for such fish or fish products exported from such nation to the United States.

(3) (A) The Secretary, on the basis of the best scientific evidence available and in consultation with the Marine Mammal Commission, is authorized and directed, from time to time, having due regard to the distribution, abundance, breeding habits, and times and lines of migratory movements of such marine mammals, to determine when, to what extent, if at all, and by what means, it is compatible with this Act to waive the requirements of this section so as to allow taking, or importing of any marine mammal, or any marine mammal product, and to adopt suitable regulations, issue permits, and make determinations in accordance with sections 102, 103, 104, and 111 of this title permitting and governing such taking and importing, in accordance with such determinations: *Provided, however,* That the Secretary, in making such determinations, must be assured that the taking of such marine mammal is in accord with sound principles of resource protection and conservation as provided in the purposes and policies of this Act: *Provided further, however,* That no marine mammal or no marine mammal product may be imported into the United States unless the Secretary certifies that the program for taking marine mammals in the country of origin is consistent with the provisions and policies of this Act. Products of nations not so certified may not be imported into the United States for any purpose, including processing for exportation.

(B) Except for scientific research purposes as provided for in paragraph (1) of this subsection, during the moratorium no permit may be issued for the taking of any marine mammal which is classified as belonging to an endangered species or threatened species pursuant to the Endangered Species Act of 1973² or has been designated by the Secretary as depleted, and no importation may be made of any such mammal.

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² See p. 479.

PROHIBITIONS

SEC. 102. (a) Except as provided in sections 101, 103, 104, 111, and 113 of this title, it is unlawful—

(1) for any person subject to the jurisdiction of the United States or any vessel or other conveyance subject to the jurisdiction of the United States to take any marine mammal on the high seas;

(2) except as expressly provided for by an international treaty, convention, or agreement to which the United States is a party and which was entered into before the effective date of this title or by any statute implementing any such treaty, convention, or agreement—

(A) for any person or vessel or other conveyance to take any marine mammal in waters or on lands under the jurisdiction of the United States; or

(B) for any person to use any port, harbor, or other place under the jurisdiction of the United States for any purpose in any way connected with the taking or importation of marine mammals or marine mammal products; and

(3) for any person, with respect to any marine mammal taken in violation of this title—

(A) to possess any such mammal; or

(B) to transport, sell, or offer for sale any such mammal or any marine mammal product made from any such mammal; and

(4) for any person to use, in a commercial fishery, any means or methods of fishing in contravention of any regulations or limitations, issued by the Secretary for that fishery to achieve the purposes of this Act.

(b) Except pursuant to a permit for scientific research issued under section 104(c) of this title, it is unlawful to import into the United States any marine mammal if such mammal was—

(1) pregnant at the time of taking;

(2) nursing at the time of taking, or less than eight months old, whichever occurs later;

(3) taken from a species or population stock which the Secretary has, by regulation published in the Federal Register, designated as a depleted species or stock or which has been listed as an endangered species or threatened species pursuant to the Endangered Species Act of 1973;³ or

(4) taken in a manner deemed inhumane by the Secretary.

(c) It is unlawful to import into the United States any of the following:

(1) Any marine mammal which was—

(A) taken in violation of this title; or

(B) taken in another country in violation of the law of that country.

(2) Any marine mammal product if—

(A) the importation into the United States of the marine mammal from which such product is made is unlawful under paragraph (1) of this subsection; or

³ See p. 479.

(B) the sale in commerce of such product in the country of origin of the product is illegal;

(3) Any fish, whether fresh, frozen, or otherwise prepared, if such fish was caught in a manner which the Secretary has proscribed for persons subject to the jurisdiction of the United States, whether or not any marine mammals were in fact taken incident to the catching of the fish.

(d) Subsection (b) and (c) of this section shall not apply—

(1) in the case of marine mammals or marine mammal products, as the case may be, to which subsection (b) (3) of this section applies, to such items imported into the United States before the date on which the Secretary publishes notice in the Federal Register of his proposed rulemaking with respect to the designation of the species or stock concerned as depleted or endangered; or

(2) in the case of marine mammals or marine mammal products to which subsection (c) (1) (B) or (c) (2) (B) of this section applies, to articles imported into the United States before the effective date of the foreign law making the taking or sale, as the case may be, of such marine mammals or marine mammal products unlawful.

(e) This Act shall not apply with respect to any marine mammal taken before the effective date of this Act, or to any marine mammal product consisting of, or composed in whole or in part of, any marine mammal taken before such date.

(f)⁴ It is unlawful for any person or vessel or other conveyance to take any species of whale incident to commercial whaling in waters subject to the jurisdiction of the United States.

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INTERNATIONAL PROGRAM

SEC. 108. (a) The Secretary, through the Secretary of State, shall—

(1) initiate negotiations as soon as possible for the development of bilateral or multilateral agreements with other nations for the protection and conservation of all marine mammals covered by this Act;

(2) initiate negotiations as soon as possible with all foreign governments which are engaged in, or which have persons or companies engaged in, commercial fishing operations which are found by the Secretary to be unduly harmful to any species of marine mammal, for the purpose of entering into bilateral and multilateral treaties with such countries to protect marine mammals. The Secretary of State shall prepare a draft agenda relating to this matter for discussion at appropriate international meetings and forums;

(3) encourage such other agreements to promote the purposes of this Act with other nations for the protection of specific ocean and land regions which are of special significance to the health and stability of marine mammals;

(4) initiate the amendment of any existing international treaty for the protection and conservation of any species of marine mammal to which the United States is a party in order to make such treaty consistent with the purposes and policies of this Act;

⁴ Subsection (f) was added by Sec. 4 of Public Law 95-136 (91 Stat. 1167).

(5) seek the convening of an international ministerial meeting on marine mammals before July 1, 1973, for the purposes of (A) the negotiation of a binding international convention for the protection and conservation of all marine mammals, and (B) the implementation of paragraph (3) of this section; and

(6) provide to the Congress by not later than one year after the date of the enactment of this Act a full report on the results of his efforts under this section.

(b) (1) In addition to the foregoing, the Secretary shall—

(A) in consultation with the Marine Mammal Commission established by section 201 of this Act, undertake a study of the North Pacific fur seals to determine whether herds of such seals subject to the jurisdiction of the United States are presently at their optimum sustainable population and what population trends are evident; and

(B) in consultation with the Secretary of State, promptly undertake a comprehensive study of the provisions of this Act, as they relate to North Pacific fur seals, and the provisions of the North Pacific Fur Seal Convention signed on February 9, 1957,⁵ as extended (hereafter referred to in this subsection as the "Convention"), to determine what modifications, if any, should be made to the provisions of the Convention, or of this Act, or both, to make the Convention and this Act consistent with each other.

The Secretary shall complete the studies required under this paragraph not later than one year after the date of enactment of this Act and shall immediately provide copies thereof to Congress.

(2) If the Secretary finds—

(A) as a result of the study required under paragraph (1) (A) of this subsection, that the North Pacific fur seal herds are below their optimum sustainable population and are not trending upward toward such level, or have reached their optimum sustainable population but are commencing a downward trend, and believes the herds to be in danger of depletion; or

(B) as a result of the study required under paragraph (1) (B) of this subsection, that modifications of the Convention are desirable to make it and this Act consistent;

he shall, through the Secretary of State, immediately initiate negotiations to modify the Convention so as to (i) reduce or halt the taking of seals to the extent required to assure that such herds attain and remain at their optimum sustainable population, or (ii) make the Convention and this Act consistent; or both, as the case may be. If negotiations to so modify the Convention are unsuccessful, the Secretary shall, through the Secretary of State, take such steps as may be necessary to continue the existing Convention beyond its present termination date so as to continue to protect and conserve the North Pacific fur seals and to prevent a return to pelagic sealing.

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⁵ 8 UST 2283; TIAS 3948. See box note on p. 391.

TITLE II—MARINE MAMMAL COMMISSION

ESTABLISHMENT OF COMMISSION

SEC. 201. (a) There is hereby established the Marine Mammal Commission (hereafter referred to in this title as the "Commission").

(b) (1) The Commission shall be composed of three members who shall be appointed by the President. The President shall make his selection from a list, submitted to him by the Chairman of the Council on Environmental Quality, the Secretary of the Smithsonian Institution, the Director of the National Science Foundation, and the Chairman of the National Academy of Sciences, of individuals knowledgeable in the fields of marine ecology and resource management, and who are not in a position to profit from the taking of marine mammals. No member of the Commission may, during his period of service on the Commission, hold any other position as an officer or employee of the United States except as a retired officer or retired civilian employee of the United States.

(2) The term of office for each member shall be three years; except that of the members initially appointed to the Commission, the term of one member shall be for one year, the term of one member shall be for two years, and the term of one member shall be for three years. No member is eligible for reappointment; except that any member appointed to fill a vacancy occurring before the expiration of the term for which his predecessor was appointed (A) shall be appointed for the remainder of such term, and (B) is eligible for reappointment for one full term. A member may serve after the expiration of his term until his successor has taken office.

(c) The President shall designate a Chairman of the Commission (hereafter referred to in this title as the "Chairman") from among its members.

(d) Members of the Commission shall each be compensated at a rate equal to the daily equivalent of the rate for GS-18 of the General Schedule under section 5332 of title 5, United States Code, for each day such member is engaged in the actual performance of duties vested in the Commission. Each member shall be reimbursed for travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons in Government service employed intermittently.

(e) The Commission shall have an Executive Director, who shall be appointed (without regard to the provisions of title 5, United States Code, governing appointments in the competitive service) by the Chairman with the approval of the Commission and shall be paid at a rate not in excess of the rate for GS-18 of the General Schedule under section 5332 of title 5, United States Code. The Executive Director shall have such duties as the Chairman may assign.

DUTIES OF COMMISSION

Sec. 202. (a) The Commission shall—

(1) undertake a review and study of the activities of the United States pursuant to existing laws and international conventions

relating to marine mammals, including, but not limited to, the International Convention for the Regulation of Whaling, the Whaling Convention Act of 1949,⁶ the Interim Convention on the Conservation of North Pacific Fur Seals,⁴ and the Fur Seal Act of 1966;⁷

(2) conduct a continuing review of the condition of the stocks of marine mammals, of methods for their protection and conservation, of humane means of taking marine mammals, of research programs conducted or proposed to be conducted under the authority of this Act, and of all applications for permits for scientific research;

(3) undertake or cause to be undertaken such other studies as it deems necessary or desirable in connection with its assigned duties as to the protection and conservation of marine mammals;

(4) recommend to the Secretary and to other Federal officials such steps as it deems necessary or desirable for the protection and conservation of marine mammals;

(5) recommend to the Secretary of State appropriate policies regarding existing international arrangements for the protection and conservation of marine mammals, and suggest appropriate international arrangements for the protection and conservation of marine mammals;

(6) recommend to the Secretary such revisions of the endangered species list and threatened species list published pursuant to section 1533(c)(1) of this title as may be appropriate with regard to marine mammals; and

(7) recommend to the Secretary, other appropriate Federal officials, and Congress such additional measures as it deems necessary or desirable to further the policies of this Act, including provisions for the protection of the Indians, Eskimos, and Aleuts whose livelihood may be adversely affected by actions taken pursuant to this Act.

(b) The Commission shall consult with the Secretary at such intervals as it or he may deem desirable, and shall furnish its reports and recommendations to him, before publication, for his comment.

(c) The reports and recommendations which the Commission makes shall be matters of public record and shall be available to the public at all reasonable times. All other activities of the Commission shall be matters of public record and available to the public in accordance with the provisions of section 552 of title 5, United States Code.

(d) Any recommendations made by the Commission to the Secretary and other Federal officials shall be responded to by those individuals within one hundred and twenty days after receipt thereof. Any recommendations which are not followed or adopted shall be referred to the Commission together with a detailed explanation of the reasons why those recommendations were not followed or adopted.

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⁶ For text, see p. 457.

⁷ 80 Stat. 1091; 16 U.S.C. 1151 note.

COMMISSION REPORTS

SEC. 204. The Commission shall transmit to Congress, by January 31 of each year, a report which shall include—

(1) a description of the activities and accomplishments of the Commission during the immediately preceding year; and

(2) all the findings and recommendations made by and to the Commission pursuant to section 202 of this Act together with the responses made to these recommendations.

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AUTHORIZATION OF APPROPRIATIONS

SEC. 207.⁸ There are authorized to be appropriated for the fiscal year in which this title is enacted⁹ and for the next five fiscal years thereafter such sums as may be necessary to carry out this title, but the sums appropriated for any fiscal year other than the fiscal year ending September 30, 1978, shall not exceed \$1,000,000, and the sum appropriated for the fiscal year ending September 30, 1978, shall not exceed \$2,000,000.

⁸ Sec. 207 was amended and restated by Sec. 3 of Public Law 95-136 (91 Stat. 1167).

⁹ Fiscal year 1978.

M. AVIATION AND SPACE

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THE UNIVERSITY OF CHICAGO
DIVISION OF THE PHYSICAL SCIENCES
DEPARTMENT OF CHEMISTRY
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CHICAGO, ILLINOIS 60637

RESEARCH REPORT

THE UNIVERSITY OF CHICAGO
DIVISION OF THE PHYSICAL SCIENCES
DEPARTMENT OF CHEMISTRY
5408 SOUTH ELLIS AVENUE
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THE UNIVERSITY OF CHICAGO

1. Antihijacking Act of 1974

Title I of Public Law 93-366 [S. 39], 88 Stat. 409, approved August 5, 1974

AN ACT To amend the Federal Aviation Act of 1958 to implement the Convention for the Suppression of Unlawful Seizure of Aircraft; to provide a more effective program to prevent aircraft piracy; and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I—ANTIHIJACKING ACT OF 1974

SEC. 101. This title may be cited as the "Antihijacking Act of 1974".

SEC. 102. Section 101(32) of the Federal Aviation Act of 1958 (49 U.S.C. 1301(32)), relating to the definition of the term "special aircraft jurisdiction of the United States", is amended to read as follows:

"(32) The term 'special aircraft jurisdiction of the United States' includes—

"(a) civil aircraft of the United States;

"(b) aircraft of the national defense forces of the United States;

"(c) any other aircraft within the United States;

"(d) any other aircraft outside the United States—

"(i) that has its next scheduled destination or last point of departure in the United States, if that aircraft next actually lands in the United States; or

"(ii) having 'an offense', as defined in the Convention for the Suppression of Unlawful Seizure of Aircraft,¹ committed aboard, if that aircraft lands in the United States with the alleged offender still aboard; and

"(e) other aircraft leased without crew to a lessee who has his principal place of business in the United States, or if none, who has his permanent residence in the United States;

while that aircraft is in flight, which is from the moment when all external doors are closed following embarkation until the moment when one such door is opened for disembarkation or in the case of a forced landing, until the competent authorities take over the responsibility for the aircraft and for the persons and property aboard."

SEC. 103. (a) Paragraph (2) of subsection (i) of section 902 of such Act (49 U.S.C. 1472), relating to the definition of the term "aircraft piracy", is amended by striking out "threat of force or violence and" inserting in lieu thereof "threat of force or violence, or by any other form of intimidation, and".

(b) Section 902 of such Act is further amended by redesignating subsections (n) and (o) as subsections (o) and (p), respectively, and by inserting immediately after subsection (m) the following new subsection:

“AIRCRAFT PIRACY OUTSIDE SPECIAL AIRCRAFT JURISDICTION OF THE
UNITED STATES

“(n) (1) Whoever aboard an aircraft in flight outside the special aircraft jurisdiction of the United States commits ‘an offense’, as defined in the Convention for the Suppression of Unlawful Seizure of Aircraft, and is afterward found in the United States shall be punished—

“(A) by imprisonment for not less than 20 years; or

“(B) if the death of another person results from the commission or attempted commission of the offense, by death or by imprisonment for life.

“(2) A person commits ‘an offense’, as defined in the Convention for the Suppression of Unlawful Seizure of Aircraft¹ when, while aboard an aircraft in flight, he—

“(A) unlawfully, by force or threat thereof, or by any other form of intimidation, seizes, or exercises control of, that aircraft, or attempts to perform any such act; or

“(B) is an accomplice of a person who performs or attempts to perform any such act.

“(3) This subsection shall only be applicable if the place of takeoff or the place of actual landing of the aircraft on board which the offense, as defined in paragraph (2) of this subsection, is committed is situated outside the territory of the State of registration of that aircraft.

“(4) For purposes of this subsection an aircraft is considered to be in flight from the moment when all the external doors are closed following embarkation until the moment when one such door is opened for disembarkation, or in the case of a forced landing, until the competent authorities take over responsibility for the aircraft and for the persons and property aboard.”.

(c) Subsection (o) of such section 902, as so redesignated by subsection (b) of this section, is amended by striking out “subsections (i) through (m)” and inserting in lieu thereof “subsections (i) through (n)”.

SEC. 104. (a) Section 902(i) (1) is [sic] the Federal Aviation Act of 1958 (49 U.S.C. 1472(i) (1)) is amended to read as follows:

“(1) Whoever commits or attempts to commit aircraft piracy, as herein defined, shall be punished—

“(A) by imprisonment for not less than 20 years; or

“(B) if the death of another person results from the commission or attempted commission of the offense, by death or by imprisonment for life.”.

(b) Section 902(i) of such Act is further amended by adding at the end thereof the following new paragraph:

“(3) An attempt to commit aircraft piracy shall be within the special aircraft jurisdiction of the United States even though the aircraft is not in flight at the time of such attempt if the aircraft would have

¹ 22 UST 1641 ; TIAS 7192. See Vol. III, Sec. M for text.

been within the special aircraft jurisdiction of the United States had the offense of aircraft piracy been completed.”.

SEC. 105. Section 903 of the Federal Aviation Act of 1958 (49 U.S.C. 1473), relating to venue and prosecution of offenses, is amended by adding at the end thereof the following new subsection:

“PROCEDURE IN RESPECT OF PENALTY FOR AIRCRAFT PIRACY

“(c) (1) A person shall be subjected to the penalty of death for any offense prohibited by section 902(i) or 902(n) of this Act only if a hearing is held in accordance with this subsection.

“(2) When a defendant is found guilty of or pleads guilty to an offense under section 902(i) or 902(n) of this Act for which one of the sentences provided is death, the judge who presided at the trial or before whom the guilty plea was entered shall conduct a separate sentencing hearing to determine the existence or nonexistence of the factors set forth in paragraphs (6) and (7), for the purpose of determining the sentence to be imposed. The hearing shall not be held if the Government stipulates that none of the aggravating factors set forth in paragraph (7) exists or that one or more of the mitigating factors set forth in paragraph (6) exists. The hearings shall be conducted—

“(A) before the jury which determined the defendant’s guilt;

“(B) before a jury impaneled for the purpose of the hearing if—

“(i) the defendant was convicted upon a plea of guilty;

“(ii) the defendant was convicted after a trial before the court sitting without a jury; or

“(iii) the jury which determined the defendant’s guilt has been discharged by the court for good cause; or

“(C) before the court alone, upon the motion of the defendant and with the approval of the court and of the Government.

“(3) In the sentencing hearing the court shall disclose to the defendant or his counsel all material contained in any presentence report, if one has been prepared, except such material as the court determines is required to be withheld for the protection of human life or for the protection of the national security. Any presentence information withheld from the defendant shall not be considered in determining the existence or the nonexistence of the factors set forth in paragraph (6) or (7). Any information relevant to any of the mitigating factors set forth in paragraph (6) may be presented by either the Government or the defendant, regardless of its admissibility under the rules governing admission of evidence at criminal trials; but the admissibility of information relevant to any of the aggravating factors set forth in paragraph (7) shall be governed by the rules governing the admission of evidence at criminal trials. The Government and the defendant shall be permitted to rebut any information received at the hearing, and shall be given fair opportunity to present argument as to the adequacy of the information to establish the existence of any of the factors set forth in paragraph (6) or (7). The burden of establishing the existence of any of the factors set forth in paragraph (7) is on the Government. The burden of establishing the existence of any of the factors set forth in paragraph (6) is on the defendant.

"(4) The jury or, if there is no jury, the court shall return a special verdict setting forth its findings as to the existence or nonexistence of each of the factors set forth in paragraph (6) and as to the existence or nonexistence of each of the factors set forth in paragraph (7).

"(5) If the jury or, if there is no jury, the court finds by a preponderance of the information that one or more of the factors set forth in paragraph (7) exists and that none of the factors set forth in paragraph (6) exists, the court shall sentence the defendant to death. If the jury or, if there is no jury, the court finds that none of the aggravating factors set forth in paragraph (7) exists, or finds that one or more of the mitigating factors set forth in paragraph (6) exists, the court shall not sentence the defendant to death but shall impose any other sentence provided for the offense for which the defendant was convicted.

"(6) The court shall not impose the sentence of death on the defendant if the jury or, if there is no jury, the court finds by a special verdict as provided in paragraph (4) that at the time of the offense—

"(A) he was under the age of eighteen;

"(B) his capacity to appreciate the wrongfulness of his conduct or to conform his conduct to the requirements of law was significantly impaired, but not so impaired as to constitute a defense to prosecution;

"(C) he was under unusual and substantial duress, although not such duress as to constitute a defense to prosecution;

"(D) he was a principal (as defined in section 2(a) of title 18 of the United States Code) in the offense, which was committed by another, but his participation was relatively minor, although not so minor as to constitute a defense to prosecution; or

"(E) he could not reasonably have foreseen that his conduct in the course of the commission of the offense for which he was convicted would cause, or would create a grave risk of causing death to another person.

"(7) If no factor set forth in paragraph (6) is present, the court shall impose the sentence of death on the defendant if the jury or, if there is no jury, the court finds by a special verdict as provided in paragraph (4) that—

"(A) the death of another person resulted from the commission of the offense but after the defendant had seized or exercised control of the aircraft; or

"(B) the death of another person resulted from the commission or attempted commission of the offense, and—

"(i) the defendant has been convicted of another Federal or State offense (committed either before or at the time of the commission or attempted commission of the offense) for which a sentence of life imprisonment or death was impossible;

"(ii) the defendant has previously been convicted of two or more State or Federal offenses with a penalty of more than one year imprisonment (committed on different occasions before the time of the commission or attempted commission of the offense), involving the infliction of serious bodily injury upon another person;

"(iii) in the commission or attempted commission of the offense, the defendant knowingly created a grave risk of death

to another person in addition to the victim of the offense or attempted offense; or

“(iv) the defendant committed or attempted to commit the offense in an especially heinous, cruel, or depraved manner.”.

SEC. 106. Title XI of such Act (49 U.S.C. 1501-1513) is amended by adding at the end thereof the following new sections:

“SUSPENSION OF AIR SERVICES

“SEC. 1114. (a) Whenever the President determines that a foreign nation is acting in a manner inconsistent with the Convention for the Suppression of Unlawful Seizure of Aircraft,¹ or if he determines that a foreign nation permits the use of territory under its jurisdiction as a base of operations or training or as a sanctuary for, or in any way arms, aids, or abets, any terrorist organization which knowingly uses the illegal seizure of aircraft or the threat thereof as an instrument of policy, he may, without notice or hearing and for as long as he determines necessary to assure the security of aircraft against unlawful seizure, suspend (1) the right of any air carrier or foreign air carrier to engage in foreign air transportation, and the right of any person to operate aircraft in foreign air commerce, to and from that foreign nation, and (2) the right of any foreign air carrier to engage in foreign air transportation, and the right of any foreign person to operate aircraft in foreign air commerce, between the United States and any foreign nation which maintains air service between itself and that foreign nation. Notwithstanding section 1102 of this Act, the President's authority to suspend rights under this section shall be deemed to be a condition to any certificate of public convenience and necessity or foreign air carrier or foreign aircraft permit issued by the Civil Aeronautics Board and any air carrier operating certificate or foreign air carrier operating specification issued by the Secretary of Transportation.

“(b) It shall be unlawful for any air carrier or foreign air carrier to engage in foreign air transportation, or for any person to operate aircraft in foreign air commerce in violation of the suspension of rights by the President under this section.

“SECURITY STANDARDS IN FOREIGN AIR TRANSPORTATION

“SEC. 1115. (a) Not later than 30 days after the date of enactment of this section the Secretary of State shall notify each nation with which the United States has a bilateral air transport agreement or, in the absence of such agreement, each nation whose airline or airlines hold a foreign air carrier permit or permits issued pursuant to section 402 of this Act, of the provisions of subsection (b) of this section.

“(b) In any case where the Secretary of Transportation, after consultation with the competent aeronautical authorities of a foreign nation with which the United States has a bilateral air transport agreement and in accordance with the provisions of that agreement or, in the absence of such agreement, of a nation whose airline or airlines hold a foreign air carrier permit or permits issued pursuant to section 402 of this Act, finds that such nation does not effectively maintain

and administer security measures relating to transportation of persons or property or mail in foreign air transportation that are equal to or above the minimum standards which are established pursuant to the Convention on International Civil Aviation,² he shall notify that nation of such finding and the steps considered necessary to bring the security measures of that nation to standards at least equal to the minimum standards of such convention. In the event of failure of that nation to take such steps, the Secretary of Transportation, with the approval of the Secretary of State, may withhold, revoke, or impose conditions on the operating authority of the airline or airlines of that nation."

SEC. 107. The first sentence of section 901(a)(1) of such Act (49 U.S.C. 1471(a)(1)), relating to civil penalties, is amended by inserting "or of section 1114," immediately before "of this Act".

SEC. 108. Subsection (a) of section 1007 of such Act (49 U.S.C. 1487), relating to judicial enforcement, is amended by inserting "or, in the case of a violation of section 1114 of this Act, the Attorney General," immediately after "duly authorized agents,".

SEC. 109. (a) That portion of the table of contents contained in the first section of the Federal Aviation Act of 1958 which appears under the side heading

"Sec. 902. Criminal penalties."

is amended by striking out—

"(n) Investigations by the Federal Bureau of Investigation.

"(o) Interference with aircraft accident investigation."

and inserting in lieu thereof—

"(n) Aircraft piracy outside special aircraft jurisdiction of the United States.

"(o) Investigations by Federal Bureau of Investigation.

"(p) Interference with aircraft accident investigation."

(b) That portion of such table of contents which appears under the side heading

"Sec. 903. Venue and prosecution of offenses."

is amended by adding at the end of the following new item:

"(c) Procedure in respect of penalty for aircraft piracy."

(c) That portion of such table of contents which appears under the center heading "TITLE XI—MISCELLANEOUS" is amended by adding at the end thereof the following new items:

"Sec. 1114. Suspension of air services.

"Sec. 1115. Security standards in foreign air transportation."

* * * * *

² 61 Stat. 1180.

2. International Cooperation in Scientific Research

a. National Science Foundation Act of 1950 as amended

Partial text of Public Law 81-507 [S. 247], 64 Stat. 154, approved May 10, 1950, as amended by Public Law 86-232 [H.R. 8284], 73 Stat. 468, approved September 8, 1959; and by Public Law 90-407 [H.R. 5404], 82 Stat. 365, approved July 18, 1968

* * * * *

INTERNATIONAL COOPERATION AND COORDINATION WITH FOREIGN POLICY

SEC. 13. (a) The Foundation is hereby authorized to cooperate in any international scientific research activities consistent with the purposes of this Act and to expand for such international scientific research activities such sums within the limit of appropriated funds as the Foundation may deem desirable. The Director, with the approval of the Board, may defray the expenses of representatives of Government agencies and other organizations and of individual scientists to accredited international scientific congresses and meetings whenever he deems it necessary in the promotion of the objectives of this Act.

(b) (1) The authority to enter into contracts or other arrangements with organizations or individuals in foreign countries and with agencies of foreign countries, as provided in section 11(c), and the authority to cooperate in international scientific research activities as provided in subsection (a) of this section, shall be exercised only with the approval of the Secretary of State, to the end that such authority shall be exercised in such manner as is consistent with the foreign policy objectives of the United States.

(2) If, in the exercise of the authority referred to in paragraph (1) of this subsection, negotiation with foreign countries or agencies thereof becomes necessary, such negotiation shall be carried on by the Secretary of State in consultation with the Director.¹

* * * * *

¹ Subsection (a). Public Law 86-232, September 8, 1959, 73 Stat. 468, authorized the Foundation, with approval of the Secretary of State, to cooperate in scientific activities rather than scientific research activities, and to grant fellowships or make other arrangements with foreign nationals for scientific study or scientific work in the United States. Subsection (b)(1) deleted "research" from the phrase "scientific research activities."

Subsection (a), Public Law 90-407, July 18, 1968, 82 Stat. 365, struck out "with the approval of the Board," following "The Director", (see 42 U.S.C. 1872).

b. National Aeronautics and Space Act of 1958

Partial text of Public Law 85-568 [H.R. 12575], 72 Stat. 426, approved
July 29, 1958

AN ACT To provide for research into problems of flight within and outside the
earth's atmosphere, and for other purposes.

* * * * *

INTERNATIONAL COOPERATION

SEC. 205. The Administration, under the foreign policy guidance
of the President, may engage in a program of international coopera-
tion in work done pursuant to this Act, and in the peaceful application
of the results thereof, pursuant to agreements made by the President
with the advice and consent of the Senate.

* * * * *

(508)

c. National Aeronautics and Space Administration Authorization Act, 1976¹

Partial text of Public Law 94-39 [H.R. 4700], 89 Stat. 218, approved
June 19, 1975

AN ACT To authorize appropriations to the National Aeronautics and Space Administration for research and development, construction of facilities, and research and program management, and for other purposes.

* * * * *

TITLE IV—UPPER ATMOSPHERIC RESEARCH

PURPOSE AND POLICY

SEC. 401. (a) The purpose of this title is to authorize and direct the Administration to develop and carry out a comprehensive program of research, technology, and monitoring of the phenomena of the upper atmosphere so as to provide for an understanding of and to maintain the chemical and physical integrity of the Earth's upper atmosphere.

(b) The Congress declares that it is the policy of the United States to undertake an immediate and appropriate research, technology, and monitoring program that will provide for understanding the physics and chemistry of the Earth's upper atmosphere.

DEFINITIONS

SEC. 402. For the purpose of this title the term "upper atmosphere" means that portion of the Earth's sensible atmosphere above the troposphere.

PROGRAM AUTHORIZED

SEC. 403. (a) In order to carry out the purposes of this title the Administration in cooperation with other Federal agencies, shall initiate and carry out a program of research, technology, monitoring, and other appropriate activities directed to understand the physics and chemistry of the upper atmosphere.

(b) In carrying out the provisions of this title the Administration shall—

(1) arrange for participation by the scientific and engineering community, of both the Nation's industrial organizations and institutions of higher education, in planning and carrying out appropriate research, in developing necessary technology and in making necessary observations and measurements;

(2) provide, by way of grant, contract, scholarships or other arrangements, to the maximum extent practicable and consistent with other laws, for the widest practicable and appropriate par-

¹ 42 U.S.C. 2481-2484.

ticipation of the scientific and engineering community in the program authorized by this title; and

(3) make all results of the program authorized by this title available to the appropriate regulatory agencies and provide for the widest practicable dissemination of such results.

INTERNATIONAL COOPERATION

SEC. 404. In carrying out the provisions of this title, the Administration, subject to the direction of the President and after consultation with the Secretary of State, shall make every effort to enlist the support and cooperation of appropriate scientists and engineers of other countries and international organizations.

* * * * *

N. OTHER LEGISLATION

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1. Provisions of Law Relating to Travel Outside the United States

a. Local Currency Availability

Partial text of Public Law 83-665 [H.R. 9678], 68 Stat. 832, approved August 26, 1954, as amended by Public Law 83-778 [H.R. 10051], 68 Stat. 1223, approved September 3, 1954; Public Law 84-726 [H.R. 11356], 70 Stat. 560, approved July 18, 1956; Public Law 85-477 [H.R. 12181], 72 Stat. 268, approved June 30, 1958; Public Law 85-766 [H.R. 13450], 72 Stat. 880, approved August 27, 1958; Public Law 86-472 [H.R. 11510], 74 Stat. 138, approved May 14, 1960; Public Law 86-628 [H.R. 12232], 74 Stat. 460, approved July 12, 1960; Public Law 86-633 [H.R. 11380], 78 Stat. 1015, approved October 7, 1964; Public Law 93-126 [H.R. 7645], 87 Stat. 451 at 452, approved October 18, 1973; Public Law 93-371 [H.R. 14012], 88 Stat. 424, approved August 13, 1974; Public Law 94-59 [H.R. 6950], 89 Stat. 269, approved July 25, 1975; Public Law 94-157 [H.R. 10647], 89 Stat. 826 at 837, approved December 18, 1975; Public Law 94-350 [S. 3168], 90 Stat. 823 at 833, approved July 12, 1976; and by Public Law 94-440 [H.R. 14238], 90 Stat. 1439 at 1445, approved October 1, 1976.

AN ACT To promote the security and foreign policy of the United States by furnishing assistance to friendly nations, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Mutual Security Act of 1954."

* * * * *

SEC. 502. * * *.

(b)¹ Notwithstanding section 724 of title 31, or any other provision of law, local currencies owned by the United States, which are in excess of the amounts reserved under section 612(a) of the Foreign Assistance Act of 1961, as amended, and of the requirements of the United States Government in payment of its obligations outside the United States, as such requirements may be determined from time to time by the President (and any other local currencies owned by the United States in amounts not to exceed the equivalent of \$75² per day per person exclusive of the actual cost of transportation), shall be made

¹ 22 U.S.C. 1754(b).

² Sec. 5 of Public Law 93-126, 87 Stat. 452, inserted "\$75" for "\$50" and added the words "members and employees of" before the words "appropriate committees". In addition P.L. 93-126 deleted the original proviso and added the final sentence to sec. 502(b) of the Mutual Security Act of 1954. The text of the proviso formerly read: "Provided, That each member or employee of any such committee shall make, to the chairman of such committee in accordance with regulations prescribed by such committee, an itemized report showing the amounts and dollar equivalent values of each such foreign currency expended and the amounts of dollar expenditures made from appropriated funds in connection with travel outside the United States, together with the purposes of the expenditure, including lodging, meals, transportation, and other purposes. Within the first sixty days that Congress is in session in each calendar year, the chairman of each such committee shall prepare a consolidated report showing the total itemized expenditures during the preceding calendar year of the committee and each subcommittee thereof, and of each member and employee of such committee or subcommittee, and shall forward such consolidated report to the Committee on House Administration of the House of Representatives (if the committee be a committee of the House of Representatives or a joint committee whose funds are disbursed by the Clerk of the House) or to the Committee on Appropriations of the Senate (if the committee be a Senate committee or a joint committee whose funds are disbursed by the Secretary of the Senate). Each such report submitted by each committee shall be published in the Congressional Record within ten legislative days after receipt by the Committee on House Administration of the House or the Committee on Appropriations of the Senate."

available to members and employees ² of appropriate committees of the Congress engaged in carrying out their duties under section 190d of title 2, and to the Joint Committee on Atomic Energy, the Joint Economic Committee, and the Joint Committee on Congressional Operations ³ and the Select Committee on Intelligence of the Senate ⁴ and the Select Committees on Small Business of the Senate and House of Representatives and the Select Committee on Astronautics and Space Exploration of the House of Representatives and the Special Committee on Space and Astronautics of the Senate, for their local currency expenses. Within the first sixty days that Congress is in session in each calendar year, the chairman of such committee shall prepare a consolidated report itemizing the amounts and dollar equivalent values of each such foreign currency expended and the amounts of dollar expenditures from appropriated funds in connection with travel outside the United States, together with the purposes of the expenditure, including per diem (lodging and meals), transportation and other purposes, and showing the total itemized expenditures during the preceding calendar year of the committee, and of each member or employee of such committee, and shall forward such consolidated report to the Committee on House Administration of the House of Representatives (if the committee be a committee of the House of Representatives or a joint committee whose funds are disbursed by the Clerk of the House) or to the Secretary of the Senate (if the committee be a Senate committee or joint committee whose funds are disbursed by the Secretary of the Senate), and shall be open to public inspection.⁵ Each such consolidated report shall be published in the Congressional Record within ten legislative days after it is forwarded pursuant to this subsection.⁶ In the case of the Select Committee on Intelligence of the Senate, such consolidated report may, in the discretion of the chairman of such select committee, omit such information as would identify the foreign countries in which members and employees of such select committee traveled.⁷

³ The reference to the Joint Committee on Congressional Operations was added by Title I, Chapter IV of Public Law 94-157 (89 Stat. 837).

⁴ The reference to the Select Committee on Intelligence of the Senate was added by Sec. 109(1) of Public Law 94-440 (90 Stat. 1445).

⁵ The last two sentences were added by Sec. 107 of Public Law 93-371 (88 Stat. 424 at 444) and were amended by Sec. 1105 of Public Law 94-59 (89 Stat. 269 at 299).

⁶ This sentence of Subsection (b) was added by Sec. 402 of the Foreign Relations Authorization Act, Fiscal Year 1977 (Public Law 94-350).

⁷ The last sentence was added by Sec. 109(2) of Public Law 94-440 (90 Stat. 1445).

b. Reporting Requirements for House Interparliamentary Groups

Partial text of Public Law 86-628 [Legislative Branch Appropriation Act of 1961; H.R. 12232], 74 Stat. 446; 22 U.S.C. 276c-1 approved July 12, 1960, as amended by Public Law 90-137 [S. 1872], 81 Stat. 445 at 463, approved November 19, 1967; and by Public Law 94-59 [H.R. 6950], 89 Stat. 269, approved July 25, 1975

AN ACT Making appropriations for the Legislative Branch for the fiscal year ending June 30, 1961, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the Legislative Branch for the fiscal year ending June 30, 1961, and for other purposes, namely:

* * * * *

SEC. 105.² * * *

(b) Each chairman or senior member of the House of Representatives and Senate group or delegation of the United States group or delegation to the Interparliamentary Union,³ the North Atlantic Assembly,⁴ the Canada-United States Interparliamentary Group,⁵ the Mexico-United States Interparliamentary Group,⁶ or any similar interparliamentary group of which the United States is a member or participates, by whom or on whose behalf local currencies owned by the United States are made available and expended and/or expenditures are made from funds appropriated for the expenses of such group or delegation, shall file with the chairman of the Committee on Foreign Relations of the Senate in the case of the group or delegation of the Senate, or with the chairman of the Committee on International Relations of the House of Representatives in the case of the group or delegation of the House, an itemized report showing all such expenditures made by or on behalf of each Member or employee of the group or delegation together with the purposes of the expenditure, including per diem (lodging and meals), transportation, and for other purposes. Within sixty days after the beginning of each regular session of Congress, the chairman of the Committee on Foreign Relations and the chairman of the Committee on International Relations shall prepare consolidated reports showing with respect to each such group or delegation the total amount expended, the purpose of the expendi-

¹ Amended and restated by Sec. 1104 of Public Law 94-59.

² See page 518 for text of Interparliamentary Union Participation Act.

³ See page 524 for text of resolution authorizing participation in NATO parliamentary conferences.

⁴ See page 520 for text of resolution authorizing participation in parliamentary conferences with Canada.

⁵ See page 522 for text of resolution authorizing participation in parliamentary conferences with Mexico.

tures, the amount expended for each such purpose, the names of the Members or employees by or on behalf of whom the expenditures were made and the amount expended by or on behalf of each Member or employee for each such purpose. The consolidated reports prepared by the chairman of the Committee on Foreign Relations of the Senate shall be filed with the Secretary of the Senate, and the consolidated reports prepared by the chairman of the Committee on International Relations of the House shall be filed with the Committee or, House Administration of the House and shall be open to public inspection.

* * * * *

c. Availability of Funds for Field Examination of Estimates

Partial text of Public Law 83-207 [H.R. 6200], 67 Stat. 418 at 438; 31 U.S.C. 22a, approved August 7, 1953

AN ACT Making supplemental appropriations for the fiscal year ending June 30, 1954, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, to supply supplemental appropriations (this Act may be cited as the "Supplemental Appropriations Act, 1954") for the fiscal year ending June 30, 1954, and for other purposes, namely:

* * * * *

"§ 22a. Availability of funds for field examination of estimates.

"Funds made available in any Act shall hereafter be available for examination of estimates of appropriations in the field and the use of such funds for such purpose shall be subject only to regulations by the standing committees concerned."

* * * * *

2. Legislation Authorizing U.S. Participation in Parliamentary Conferences¹

a. Interparliamentary Union

(1) Public Law 74-170 [S. 2276], 49 Stat. 425; 22 U.S.C. 276, approved June 28, 1935, as amended by Public Law 80-409 [S. 1005], 62 Stat. 19, approved February 6, 1948; Public Law 85-477 [H.R. 12181], 72 Stat. 272, approved June 20, 1958; Public Law 87-195 [S. 1983], 75 Stat. 465, approved September 4, 1961; Public Law 87-56 [S. 2996], 76 Stat. 263, approved August 1, 1962; Public Law 88-633 [H.R. 11380], 78 Stat. 1014, approved October 7, 1964; Public Law 90-137 [S. 1872], 81 Stat. 463, approved November 14, 1967; Public Law 92-226 [S. 2819], 86 Stat. 34, approved February 7, 1972; Public Law 93-126 [H.R. 7645], 87 Stat. 452, approved October 18, 1973; Public Law 94-141 [S. 1517], 89 Stat. 756, approved November 29, 1975; and by Public Law 95-45 [H.R. 5040], 91 Stat. 221 at 223, approved June 15, 1977.

AN ACT To authorize participation by the United States in the Interparliamentary Union.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled. That there is authorized to be appropriated for fiscal year 1976 and for each subsequent fiscal year—

(1) for the annual contribution of the United States toward the maintenance of the Bureau of the Interparliamentary Union for the promotion of international arbitration, an amount equal to 13.61 per centum of the budget of the Interparliamentary Union for the year with respect to which such contribution is to be made if the American group of the Interparliamentary Union has approved such budget; and

(2) to assist in meeting the expenses of the American group for such fiscal year, \$45,000, or so much thereof as may be necessary.

Funds made available under paragraph (2) shall be disbursed on vouchers to be approved by the Chairman of the House delegation in the case of delegates from the House of Representatives or the Chairman of the Senate delegation in the case of delegates from the Senate, except that either such Chairman may authorize the executive secretary of the American group to approve such vouchers on his behalf.^{2 3}

¹ See page 513 for laws relating to reporting of expenses incurred in connection with travel outside the United States.

² As amended by Sec. 204(a) of Public Law 94-141 (89 Stat. 762). Originally \$20,000 annually was authorized with \$10,000 authorized for the annual contribution of the United States toward maintenance of the Bureau and \$10,000 authorized to meet the expenses of the American group. The authorization figures have been amended eight times. Section 204(a) reworded the entire section which had previously read, "That an appropriation of \$120,000 annually is authorized, \$75,000 of which shall be for the annual contributions of the United States toward the maintenance of the Bureau of the Interparliamentary Union for the promotion of international arbitration; and \$45,000, or so much thereof as may be necessary, to assist in meeting the expenses of the American group of the Interparliamentary Union for each fiscal year for which an appropriation is made, such appropriation to be disbursed on vouchers to be approved by the president and executive secretary of the American Group."

³ Sec. 4(d)(1) of Public Law 95-45 (91 Stat. 223) struck out the words "president and the executive secretary of the American group" and inserted the words to this point beginning with, "Chairman of the House delegation * * *".

SEC. 2. That the American group of the Interparliamentary Union shall submit to the Congress a report for each fiscal year for which an appropriation is made, including its expenditures under such appropriation.

SEC. 3.⁴ There shall be not to exceed twelve delegates from the House of Representatives (at least four of whom shall be from the Committee on International Relations) to each Conference of the Interparliamentary Union, such delegates to be appointed by the Speaker of the House of Representatives. The Chairman or Vice Chairman of the House delegation shall be a member from the Committee on International Relations. The Speaker shall designate the Chairman and the Vice Chairman of the House delegation for each such Conference.

SEC. 4.⁵ Senate delegates to each conference of the Interparliamentary Union, and to all other parliamentary conferences, shall be designated by the President of the Senate upon recommendations of the majority and minority leaders of the Senate. Unless the President of the Senate, upon the recommendation of the majority leader, determines otherwise, the Chairman or Vice Chairman of the Senate delegation shall be a Member from the Foreign Relations Committee. Not fewer than two Senators designated to be in the Senate delegation to each conference of the Interparliamentary Union shall be members of the Committee on Foreign Relations.

SEC. 5.⁵ After December 31, 1977, the executive secretary of the American group of the Interparliamentary Union shall be an officer or employee of the Senate or the House of Representatives and shall be appointed—

(1) by the Chairman of the Senate delegation upon recommendations of the majority and minority leaders of the Senate for service during odd-numbered Congresses; and

(2) by the Chairman of the House delegation for service during even-numbered Congresses.

SEC. 6.⁵ The certificate of the Chairman of the respective delegation to the Interparliamentary Union (or the certificate of the executive secretary of the American group if the Chairman delegates such authority to him) shall be final and conclusive upon the accounting officers in the auditing of all accounts of the House and Senate delegations to the Interparliamentary Union.

(2) Designation of Senate delegates to Conferences of the Interparliamentary Union

Public Law 85-474 [H.R. 12428], 72 Stat. 244 at 246; 22 U.S.C. 276c, approved June 30, 1958, as amended by Public Law 94-141 [S. 1517], 89 Stat. 756, approved November 29, 1975.

On and after June 30, 1958, Senate delegates to Conferences of the Interparliamentary Union shall be designated by the Presiding Officer of the Senate. Not less than two Senators so designated shall be members of the Committee on Foreign Relations.⁶

⁴ Section 3, as added by Sec. 204(b) of Public Law 94-141 (89 Stat. 762), was amended and restated by Sec. 4(d)(2) of Public Law 95-45 (91 Stat. 223).

⁵ Sections 4, 5, and 6 were added by Sec. 4(d)(3) of Public Law 95-45 (91 Stat. 223).

⁶ The last sentence was added by Sec. 204(c) of Public Law 94-141.

b. Canada-United States Interparliamentary Group

Public Law 86-42 [H.J. Res. 254] 73 Stat. 72; 22 U.S.C. 276d-276g, approved June 11, 1959; as amended by Public Law 94-350 [S. 3168], 90 Stat. 823, approved July 12, 1976; and by Public Law 95-45 [H.R. 5040], 91 Stat. 221 at 222, approved June 15, 1977.

JOINT RESOLUTION To authorize participation by the United States in parliamentary conference with Canada.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That not to exceed twenty-four Members of Congress shall be appointed to meet jointly and at least annually and when Congress is not in session (except that this restriction shall not apply during the first session of the Eighty-sixth Congress or to meetings held in the United States) with representatives of the House of Commons and Senate of the Canadian Parliament for discussion of common problems in the interests of relations between the United States and Canada. Of the Members of the Congress to be appointed for the purposes of this resolution (hereinafter designated as the United States group) half shall be appointed by the Speaker of the House from Members of the House (not less than four of whom shall be from the International Relations¹ Committee), and half shall be appointed by the President of the Senate upon recommendations of the majority and minority leaders of the Senate² from Members of the Senate (not less than four of whom shall be from the Foreign Relations Committee).

Such appointments shall be for a period of each meeting of the Canada-United States Interparliamentary group except for the four members of the International Relations¹ Committee and the four members of the Foreign Relations Committee, whose appointments shall be for the duration of each Congress.

The Chairman or Vice Chairman of the House delegation shall be a Member from the International Relations Committee, and, unless the President of the Senate, upon the recommendation of the Majority Leader, determines otherwise, the Chairman or Vice Chairman of the Senate delegation shall be a Member from the Foreign Relations Committee.³

SEC. 2. An appropriation of \$50,000⁴ annually is authorized, \$25,000⁴ of which shall be for the House delegation and \$25,000⁴ for the Senate delegation, or so much thereof as may be necessary, to assist in meeting the expenses of the United States group of the Canada-United States Interparliamentary group for each fiscal year

¹ Sec. 4(a) of Public Law 95-45 (91 Stat. 222) substituted "International Relations" in lieu of "Foreign Affairs."

² Sec. 4(a)(1) of Public Law 95-45 (91 Stat. 222) added the words "upon recommendations of the majority and minority leaders of the Senate."

³ This paragraph was added by Sec. 4(a)(3) of Public Law 95-45 (91 Stat. 222).

⁴ Sec. 118(a) of the Foreign Relations Authorization Act, Fiscal Year 1977 (Public Law 94-350) substituted "\$50,000" and "\$25,000" in lieu of "\$30,000" and "\$15,000" respectively.

for which an appropriation is made, the House and Senate portions of such appropriation to be disbursed on vouchers to be approved by the Chairman of the House delegation and the Chairman of the Senate delegation, respectively.

SEC. 3. The United States group of the Canada-United States Interparliamentary group shall submit to the Congress a report for each fiscal year for which an appropriation is made including its expenditures under such appropriation.

SEC. 4. The certificate of the Chairman of the House delegation or the Senate delegation of the Canada-United States Interparliamentary group shall hereafter be final and conclusive upon the accounting officers in the auditing of the accounts of the United States group of the Canada-United States Interparliamentary group.

c. Mexico-United States Interparliamentary Group

Public Law 86-420 [H.J. Res. 283], 74 Stat. 40; 22 U.S.C. 276h-276k, approved April 9, 1960; as amended by Public Law 94-350 [S. 3168], 90 Stat. 823, approved July 12, 1976; and by Public Law 95-45 [H.R. 5040], 91 Stat. 221 at 222, approved June 15, 1977.

JOINT RESOLUTION To authorize participation by the United States in parliamentary conferences with Mexico.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That not to exceed twenty-four Members of Congress shall be appointed to meet jointly and at least annually with representatives of the Chamber of Deputies and Chamber of Senators of the Mexican Congress for discussion of common problems in the interests of relations between the United States and Mexico. Of the Members of the Congress to be appointed for the purposes of this resolution (hereinafter designated as the United States group) half shall be appointed by the Speaker of the House from Members of the House (not less than four of whom shall be from the International Relations¹ Committee), and half shall be appointed by the President of the Senate upon recommendations of the majority and minority leaders of the Senate² from Members of the Senate (not less than four of whom shall be from the Foreign Relations Committee). Such appointments shall be for the period of each meeting of the Mexico-United States Interparliamentary group except for the four members of the International Relations¹ Committee, and the four members of the Foreign Relations Committee, whose appointment shall be for the duration of each Congress. The Chairman or Vice Chairman of the House delegation shall be a Member from the International Relations Committee, and, unless the President of the Senate, upon the recommendation of the Majority Leader, determines otherwise, the Chairman or Vice Chairman of the Senate delegation shall be a Member from the Foreign Relations Committee.³

SEC. 2. An appropriation of \$50,000⁴ annually is authorized, \$25,000⁴ of which shall be for the House delegation and \$25,000⁴ for the Senate delegation, or so much thereof as may be necessary to assist in meeting the expenses of the United States group of the Mexico-United States Interparliamentary group for each fiscal year for which an appropriation is made, the House and Senate portions of such appropriation to be disbursed on vouchers to be approved by the Chairman of the House delegation and the Chairman of the Senate delegation, respectively.

¹ Sec. 4(b) of Public Law 95-45 (91 Stat. 222) substituted "International Relations" in lieu of "Foreign Affairs".

² Sec. 4(b) (1) of Public Law 95-45 (91 Stat. 222) added the words "upon recommendations of the majority and minority leaders of the Senate".

³ This sentence was added by Sec. 4(b) (3) of Public Law 95-45 (91 Stat. 222).

⁴ Sec. 118(b) of the Foreign Relations Authorization Act Fiscal Year 1977 (Public Law 94-350) substituted "\$50,000" and "\$25,000" in lieu of "\$30,000" and "\$15,000" respectively.

SEC. 3. The United States group of the Mexico-United States Interparliamentary group shall submit to the Congress a report for each fiscal year for which an appropriation is made including its expenditures under such appropriation.

SEC. 4. The certificate of the Chairman of the House delegation or the Senate delegation of the Mexico-United States Interparliamentary group shall hereafter be final and conclusive upon the accounting officers in the auditing of the accounts of the United States group of the Mexico-United States Interparliamentary group.

d. United States Group of the North Atlantic Assembly

Public Law 84-689 [H.J. Res. 501], 70 Stat. 523; 22 U.S.C. 1928a-1928d, approved July 11, 1956, as amended by Public Law 85-477 [H.R. 12181], 72 Stat. 261, approved June 30, 1958; Public Law 88-205 [H.R. 7885], 77 Stat. 379, approved December 16, 1963; Public Law 90-137 [S. 1782], 81 Stat. 445, approved November 14, 1967; Public Law 94-350 [S. 3168], 90 Stat. 823, approved July 12, 1976; and by Public Law 95-45 [H.R. 5040], 91 Stat. 221 at 222, approved June 15, 1977.

JOINT RESOLUTION To authorize participation by the United States in parliamentary conferences of the North Atlantic Treaty Organization.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That not to exceed twenty-four¹ Members of Congress shall be appointed to meet jointly and annually² with representative parliamentary groups from other NATO (North Atlantic Treaty Organization) members, for discussion of common problems in the interests of the maintenance of peace and security in the North Atlantic area. Of the Members of the Congress to be appointed for the purposes of this resolution (hereinafter designated as the "United States Group"), half shall be appointed by the Speaker of the House from Members of the House (not less than four of whom shall be from the Committee on International Relations),³ and half shall be appointed by the President of the Senate upon recommendations of the majority and minority leaders of the Senate⁴ from Members of the Senate. Not more than seven of the appointees from the Senate shall be of the same political party.⁵ The Chairman or Vice Chairman of the House delegation shall be a Member from the International Relations Committee, and, unless the President of the Senate, upon the recommendation of the Majority Leader, determines otherwise, the Chairman or Vice Chairman of the Senate delegation shall be a Member from the Foreign Relations Committee.⁶

SEC. 2. There is authorized to be appropriated annually, for the annual contribution of the United States toward the maintenance of the North Atlantic Assembly,⁷ such sum as may be agreed upon by the United States Group and approved by such Assembly,⁷ but in no event to exceed for any year an amount equal to 25 per centum of the total annual contributions made for that year by all members of the

¹ Sec. 4(c)(1) of Public Law 95-45 (91 Stat. 222) substituted "twenty-four" in lieu of "eighteen".

² The words "and when Congress is not in session," were deleted by Public Law 88-205, approved Dec. 16, 1963.

³ Sec. 4(c)(2) of Public Law 95-45 (91 Stat. 222) added the words to this point beginning with "not less than * * *".

⁴ Sec. 4(c)(2) of Public Law 95-45 (91 Stat. 222) added the words "upon recommendations of the majority and minority leaders of the Senate".

⁵ This sentence, which previously read, "Not more than five of the appointees from the respective Houses shall be of the same political party.", was amended by Sec. 4(c)(3) of Public Law 95-45 (91 Stat. 222).

⁶ This sentence was added by Sec. 4(c)(4) of Public Law 95-45 (91 Stat. 222).

⁷ "The North Atlantic Treaty Organization Parliamentary Conference" was changed to "North Atlantic Assembly" and "such Conference" was changed to "such Assembly" by Public Law 90-137, approved Nov. 14, 1967.

North Atlantic Treaty Organization toward the maintenance of such Assembly,⁷ and \$50,000, \$25,000 for the House delegation and \$25,000 for the Senate delegation,⁸ or so much thereof as may be necessary, to assist in meeting the expenses of the United States group of the North Atlantic Assembly⁷ for each fiscal year for which an appropriation is made, such appropriation to be dispersed on voucher to be approved by the Chairman of the House delegation and the Chairman of the Senate delegation.

SEC. 3. The United States group of the North Atlantic Assembly⁷ shall submit to the Congress a report for each fiscal year for which an appropriation is made, including its expenditures under such appropriation.

SEC. 4. The certificate of the Chairman of the House delegation and the Senate delegation of the North Atlantic Assembly⁷ shall hereafter be final and conclusive upon the accounting officers in the auditing of the accounts of the United States group of the North Atlantic Assembly.⁷

SEC. 5.⁹ In addition to the amounts authorized by section 2, there is authorized to be appropriated \$50,000 for fiscal year 1977 to meet the expenses incurred by the United States group in hosting the twenty-second annual meeting of the North Atlantic Assembly. Amounts appropriated under this section are authorized to remain available until expended.

⁸ Public Law 92-226, approved Feb. 7, 1972, amended the amounts authorized to be appropriated which formerly were "\$30,000, \$15,000 for the House delegation and \$15,000 for the Senate delegation". This sentence was previously amended and restated by section 502(d) of Public Law 95-477.

⁹ 22 U.S.C. 1928e. Sec. 5 was added by Sec. 107 of the Foreign Relations Authorization Act, Fiscal Year 1977 (Public Law 94-350).

3. International Claims Settlement Acts

a. International Claims Settlement Act of 1949, as amended ¹

Public Law 81-455 [H.R. 4406], 64 Stat. 12, approved March 10, 1950, as amended by Public Law 83-242 [H.R. 5742], 67 Stat. 506, approved August 8, 1953; Reorganization Plan No. 1, effective July 1, 1954, 19 F.R. 3985, 68 Stat. 1279; Public Law 84-285 [H.R. 6382], 69 Stat. 562, approved August 9, 1955; Public Law 85-604 [S. 3557], 72 Stat. 527, approved August 8, 1958; Public Law 85-791 [H.R. 6788], 72 Stat. 941 at 951, approved August 28, 1958; Public Law 88-666 [H.R. 12259], 78 Stat. 1110, approved October 16, 1964; Public Law 89-559 [H.R. 10104], 80 Stat. 378 at 656, approved November 6, 1966; Public Law 90-421 [H.R. 9063], 82 Stat. 420, approved July 4, 1968; Public Law 91-167 [H.R. 11711], 83 Stat. 435, approved December 24, 1969; Public Law 93-460 [H.R. 13261], 88 Stat. 1386, approved October 20, 1974; and by Public Law 94-542 [S. 3621], 90 Stat. 2509, approved October 18, 1976.

AN ACT To provide for the settlement of certain claims of the Government of the United States on its own behalf and on behalf of American nationals against foreign governments.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled. That this Act may be cited as the "International Claims Settlement Act of 1949".

TITLE I ²

SEC. 2. For the purposes of this Title—

(a) The term "person" shall include an individual, partnership, corporation, or the Government of the United States.

(b) The term "United States" when used in a geographical sense shall include the United States, its Territories and insular possessions, and the Canal Zone.

(c) The term "nationals of the United States" includes (1) persons who are citizens of the United States, and (2) persons who, though not citizens of the United States, owe permanent allegiance to the United States. It does not include aliens.

(d) The term "Yugoslav Claims Agreement of 1948" means the agreements between the Governments of the United States of America and of the Federal People's Republic of Yugoslavia regarding pecuniary claims of the United States and its nationals, signed July 19, 1948.

SEC. 3. (a) [Repealed by Public Law 89-554, (80 Stat. 378 at 656; 22 U.S.C. 1622(a))³.]

(b) [Repealed by Public Law 89-554³ (80 Stat. 378 at 656; 22 U.S.C. 1622(b)).³]

(c) The Commission may prescribe such rules and regulations as may be necessary to enable it to carry out its functions, and may

¹ 22 U.S.C. 1621-1643k.

² Designated "Title I" by Public Law 84-285, approved August 9, 1955.

³ The International Claims Commission was abolished and its functions were transferred to the Foreign Claims Settlement Commission of the United States by Reorganization

(Continued)

delegate functions to any member, officer, or employee of the Commission. The President may fix a termination date for the authority of the Commission, and the terms of office of its members under this Title. Any member of the Commission may be removed by the Secretary of State,⁴ upon notice and hearing, for neglect of duty, or malfeasance in office, but for no other cause. Not later than six months after its organization, and every six months thereafter, the Commission shall make a report, through the Secretary of State,⁴ to the Congress concerning its operations under this Title. The Commission shall, upon completion of its work, certify in duplicate to the Secretary of State and to the Secretary of the Treasury the following: (1) A list of all claims disallowed; (2) a list of all claims allowed, in whole or in part, together with the amount of each claim and the amount awarded thereon; and (3) a copy of the decision rendered in each case. No members of such Commission shall be appointed after the effective date of this Title until such Commission is reorganized by further Act of Congress but acting members may be designated by the President as provided by this section, who shall receive no compensation from the funds appropriated by H.R. 6200 for defraying the expenses of such Commission.⁵

SEC. 4. (a) The Commission shall have jurisdiction to receive, examine, adjudicate, and render final decisions with respect to claims of the Government of the United States and of nationals of the United States included within the terms of the Yugoslav Claims Agreement of 1948, or included within the terms of any claims agreement hereafter concluded between the Government of the United States and a foreign government (exclusive of governments against which the United States declared the existence of a state of war during World War II) similarly providing for the settlement and discharge of claims of the Government of the United States and of nationals of the United States against a foreign government, arising out of the nationalization or other taking of property, by the agreement of the Government of the United States to accept from that government a sum in en bloc settlement thereof. In the decision of claims under this Title, the Commission shall apply the following in the following order: (1) The provisions of the applicable claims agreement as provided in this subsection; and (2) the applicable principles of international law, justice, and equity.

(b) The Commission shall give public notice of the time when, and the limit of time within which, claims may be filed, which notice shall

(Continued)

tion Plan No. 1. 1954, effective July 1, 1954, 19 F.R. 3985, 68 Stat. 1279. Section 1 of Reorganization Plan No. 1 read:

"FOREIGN CLAIMS SETTLEMENT COMMISSION OF THE UNITED STATES

"SECTION 1. Establishment of Commission.—There is hereby established the Foreign Claims Settlement Commission of the United States, hereinafter referred to as the Commission. The Commission shall be composed of three members, who shall each be appointed by the President by and with the advice and consent of the Senate, hold office during the pleasure of the President, and receive compensation at the rate of \$15,000 per annum. The President shall from time to time designate one of the members of the Commission as the Chairman of the Commission, hereinafter referred to as the Chairman. Two members of the Commission shall constitute a quorum for the transaction of the business of the Commission."

⁴ The functions of the Secretary of State under these sentences were abolished and transferred to the Foreign Claims Settlement Commission by Reorganization Plan No. 1, 1954, Public Law 89-348 (79 Stat. 1310) modified this reporting requirement from semiannual to annual submission.

⁵ H.R. 6200 is the Supplemental Appropriation Act, 1954, Act of Aug. 7, 1953, 67 Stat. 418.

be published in the Federal Register. In addition, the Commission is authorized and directed to mail a similar notice to the last-known address of each person appearing in the records of the Department of State as having indicated an intention of filing a claim with respect to a matter concerning which the Commission has jurisdiction under this Title. All decisions shall be upon such evidence and written legal contentions as may be presented within such period as may be prescribed therefor by the Commission, and upon the results of any independent investigation of cases which the Commission may deem it advisable to make. Each decision by the Commission pursuant to this Title shall be by majority vote, and shall state the reason for such decision, and shall constitute a full and final disposition of the case in which the decision is rendered.

(c) Any member of the Commission, or any employee of the Commission, designated in writing by the Chairman of the Commission, may administer oaths and examine witnesses. Any member of the Commission may require by subpoena the attendance and testimony of witnesses, and the production of all necessary books, papers, documents, records, correspondence, and other evidence, from any place in the United States at any designated place of inquiry or of hearing. The Commission is authorized to contract for the reporting of inquiries or of hearings. Witnesses summoned before the Commission shall be paid the same fees and mileage that are paid witnesses in the courts of the United States. In case of disobedience to a subpoena, the aid of any district court of the United States, as constituted by chapter 5 of title 28, United States Code (28 U.S.C. 81 and the following), and the United States court of any Territory or other place subject to the jurisdiction of the United States may be invoked in requiring the attendance and testimony of witnesses and the production of such books, papers, documents, records, correspondence, and other evidence. Any such court within the jurisdiction of which the inquiry or hearing is carried on may, in case of contumacy or refusal to obey a subpoena issued to any person, issue an order requiring such person to appear or to give evidence touching the matter in question; and any failure to obey such order of the court may be punished by such court as a contempt thereof.

(d) The Commission may order testimony to be taken by deposition in any inquiry or hearing pending before it at any stage of such proceeding or hearing. Such depositions may be taken, under such regulations as the Commission may prescribe, before any person designated by the Commission and having power to administer oaths. Any person may be compelled to appear and depose, and to produce books, papers, documents, records, correspondence, and other evidence in the same way as witnesses may be compelled to appear and testify and produce documentary evidence before the Commission, as hereinabove provided. If a witness whose testimony may be desired to be taken by deposition be in a foreign country, the deposition may be taken, provided the laws of the foreign country so permit, by a consular officer, or by an officer or employee of the Commission, or other person commissioned by the Commission, or under letter rogatory issued by the Commission. Witnesses whose depositions are taken as authorized in this subsection, and the persons taking the same, shall

severally be entitled to the same fees as are paid for like services in the courts of the United States.

(e) In addition to the penalties provided in title 18, United States Code, section 1001, any person guilty of any act, as provided therein, with respect to any matter under this Title, shall forfeit all rights under this Title, and, if payment shall have been made or granted, the Commission shall take such action as may be necessary to recover the same.

(f)* No remuneration on account of services rendered on behalf of any claimant in connection with any claim filed with the Commission under this title shall exceed 10 per centum of the total amount paid pursuant to any award certified under the provisions of this title, on account of such claim. Any agreement to the contrary shall be unlawful and void. Whoever, in the United States or elsewhere, demands or receives, on account of services so rendered, any remuneration in excess of the maximum permitted by this section, shall be fined not more than \$5,000 or imprisoned not more than twelve months, or both.

(g) The Attorney General shall assign such officers and employees of the Department of Justice as may be necessary to represent the United States as to any claims of the Government of the United States with respect to which the Commission has jurisdiction under this title. Any and all payments required to be made by the Secretary of the Treasury under this title pursuant to any award made by the Commission to the Government of the United States shall be covered into the Treasury to the credit of miscellaneous receipts.

(h) The Commission shall notify all claimants of the approval or denial of their claims, stating the reasons and grounds therefor, and, if approved, shall notify such claimants of the amount for which such claims are approved. Any claimant whose claim is denied, or is approved for less than the full amount of such claim, shall be entitled, under such regulations as the Commission may prescribe, to a hearing before the Commission, or its duly authorized representatives, with respect to such claim. Upon such hearing, the Commission may affirm, modify, or revise its former action with respect to such claim, including a denial or reduction in the amount theretofore allowed with respect to such claim. The action of the Commission in allowing or

* Subsection (f) is stated as amended by sec. 1 of Public Law 90-421 (82 Stat. 420), approved July 24, 1968. It formerly read as follows:

"In connection with any claim decided by the Commission pursuant to this Title in which an award is made, the Commission may, upon the written request of the claimant or any attorney heretofore or hereafter employed by such claimant, determine and apportion the just and reasonable attorney's fees for services rendered with respect to such claim, but the total amount of the fees so determined in any case shall not exceed 10 per centum of the total amount paid pursuant to the award. Written evidence that the claimant and any such attorney have agreed to the amount of the attorney's fees shall be conclusive upon the Commission: *Provided, however,* That the total amount of the fees so agreed upon does not exceed 10 per centum of the total amount paid pursuant to the award. Any fee so determined shall be entered as a part of such award, and payment thereof shall be made by the Secretary of the Treasury by deducting the amount thereof from the total amount paid pursuant to the award. Any agreement to the contrary shall be unlawful and void. The Commission is authorized and directed to mail to each claimant in proceedings before the Commission notice of the provisions of this subsection. Whoever in the United States or elsewhere, pays or offers to pay, or promises to pay, or receives on account of services rendered or to be rendered in connection with any such claim, compensation which, when added to any amount previously paid on account of such services, will exceed the amount of fees so determined by the Commission, shall be guilty of a misdemeanor, and, upon conviction thereof, shall be fined not more than \$5,000 or imprisoned not more than twelve months, or both, and if any such payment shall have been made or granted, the Commission shall take such action as may be necessary to recover the same, and, in addition thereto, any such person shall forfeit all rights under this title."

denying any claim under this title shall be final and conclusive on all questions of law and fact and not subject to review by the Secretary of State or any other official, department, agency, or establishment of the United States or by any court by mandamus or otherwise.

(i) The Commission may in its discretion enter an award with respect to one or more items deemed to have been clearly established in an individual claim while deferring consideration and action on other items of the same claim.

(j) The Commission shall comply with the provisions of the Administrative Procedure Act of 1946⁷ except as otherwise specifically provided by this title.

SEC. 5. The Commission shall, as soon as possible, and in the order of the making of such awards, certify to the Secretary of the Treasury and to the Secretary of State copies of the awards made in favor of the Government of the United States or of nationals of the United States under this Title. The Commission shall certify to the Secretary of State, upon his request, copies of the formal submissions of claims filed pursuant to subsection (b) of section 4 of this Act for transmission to the foreign government concerned.

SEC. 6. The Commission shall complete its affairs in connection with settlement of United States-Yugoslav claims arising under the Yugoslav Claims Agreement of 1948 not later than December 31, 1954;⁸ *Provided*, That nothing in this provision shall be construed to limit the life of the Commission, or its authority to act on future agreements which may be affected under the provisions of this legislation.

SEC. 7. (a) Subject to the limitations hereinafter provided, the Secretary of the Treasury is authorized and directed to pay, as prescribed by section 8 of this Title, an amount not exceeding the principal of each award, plus accrued interests on such awards as bear interest, certified pursuant to section 5 of this Title, in accordance with the award. Such payments, and applications for such payments, shall be made in accordance with such regulations as the Secretary of the Treasury may prescribe.

(b) (1) There shall be deducted from the amount of each payment made pursuant to subsection (c) of section 8, as reimbursement for the expenses incurred by the United States, an amount equal to 5⁹ per centum of such payment. All amounts so deducted shall be covered into the Treasury to the credit of miscellaneous receipts.

(2)¹⁰ The Secretary of the Treasury shall deduct from any amounts covered, subsequent to the date of enactment of this paragraph, into any special fund, created pursuant to section 8, 5 per centum thereof as reimbursement to the Government of the United States for expenses incurred by the Commission and by the Treasury Department in the administration of this title. The amounts so deducted shall be covered into the Treasury to the credit of miscellaneous receipts.

(c) Payments made pursuant to this Title shall be made only to the person or persons on behalf of whom the award is made, except that—

⁷ 5 U.S.C. 551 et seq.

⁸ Public Law 83-242, approved August 8, 1953, substituted "December 31, 1954;" for "not more than four years following enactment of this Act;" (March 10, 1956).

⁹ Public Law 83-242, approved August 8, 1953, substituted "5" for "3".

¹⁰ Subsection (b) of Sec. 7 was amended by Sec. 2 of Public Law 90-421 (82 Stat. 420), approved July 24, 1968, by inserting "(1)" after the subsection letter and adding at the end thereof, new paragraph (2).

(1) ¹¹ if any person to whom any payment is to be made pursuant to this title is deceased or is under a legal disability, payment shall be made to his legal representative, except that if any payment to be made is not over \$1,000 and there is no qualified executor or administrator, payment may be made to the person or persons found by the Comptroller General to be entitled thereto, without the necessity of compliance with the requirement of law with respect to the administration of estates;

(2) in the case of a partnership or corporation, the existence of which has been terminated and on behalf of which an award is made, payment shall be made, except as provided in paragraphs (3) and (4), to the person or persons found by the Comptroller General of the United States to be entitled thereto;

(3) if a receiver or trustee for any such partnership or corporation has been duly appointed by a court of competent jurisdiction in the United States and has not been discharged prior to the date of payment, payment shall be made to such receiver or trustee in accordance with the order of the court;

(4) if a receiver or trustee for any such partnership or corporation, duly appointed by a court of competent jurisdiction in the United States, makes an assignment of the claim, or any part thereof, with respect to which an award is made, or makes an assignment of such award, or any part thereof, payment shall be made to the assignee, as his interest may appear; and

(5) in the case of any assignment of an award, or any part thereof, which is made in writing and duly acknowledged and filed, after such award is certified to the Secretary of the Treasury, payment may, in the discretion of the Secretary of the Treasury, be made to the assignee, as his interest may appear.

(d) Whenever the Secretary of the Treasury, or the Comptroller General of the United States, as the case may be, shall find that any person is entitled to any such payment, after such payment shall have been received by such person, it shall be an absolute bar to recovery by any other person against the United States, its officers, agents or employees with respect to such payment.

(e) Any person who makes application for any such payment shall be held to have consented to all the provisions of this Title.

(f) Nothing in this Title shall be construed as the assumption of any liability by the United States for the payment or satisfaction, in whole or in part, of any claim on behalf of any national of the United States against any foreign government.

SEC. 8. (a) There are hereby created in the Treasury of the United States (1) a special fund to be known as the Yugoslav Claims Fund; and (2) such other special funds as may, in the discretion of the Secretary of the Treasury, be required, each to be a claims fund to be known by the name of the foreign government which has entered into

¹¹ This paragraph was amended by Sec. 3 of Public Law 90-421 (82 Stat. 420), approved July 24, 1968. Paragraph (1) formerly read as follows:

"(1) If such person is deceased or is under a legal disability, payment shall be made to his legal representative: *Provided*, That if the total award is not over \$500 and there is no qualified executor or administrator, payment may be made to the person or persons found by the Comptroller General of the United States to be entitled thereto, without the necessity of compliance with the requirements of law with respect to the administration of estates;"

a settlement agreement with the Government of the United States as described in subsection (a) of section 4 of this Title. There shall be covered into the Treasury to the credit of the proper special fund all funds hereinafter specified. All payments authorized under section 7 of this Title shall be disbursed from the proper fund, as the case may be, and all amounts covered into the Treasury to the credit of the aforesaid funds are hereby permanently appropriated for the making of the payments authorized by section 7 of this Title.

(b) The Secretary of the Treasury is authorized and directed to cover into—

(1) the Yugoslav Claims Fund the sum of \$17,000,000 being the amount paid by the Government of the Federal People's Republic of Yugoslavia pursuant to the Yugoslav Claims Agreement of 1948;

(2) a special fund created for that purpose pursuant to subsection (a) of this section any amounts hereafter paid in United States dollars, by a foreign government which has entered into a claims settlement agreement with the Government of the United States as described in subsection (a) of section 4 of this Title.

(c)¹² The Secretary of the Treasury is authorized and directed out of the sums covered, prior to the date of enactment of subsection (e) of this section, into any of the funds pursuant to subsection (b) of this section, and after making the deduction provided for in section 7(b) (1) of this Title—

(1) to make payments in full of the principal of awards of \$1,000 or less, certified pursuant to section 5 of this Title;

(2) to make payments of \$1,000 on the principal of each award of more than \$1,000 in principal amount, certified pursuant to section 5 of this Title;

(3) to make additional payment of not to exceed 25 per centum of the unpaid principal of awards in the principal amount of more than \$1,000;

(4) after completing the payments prescribed by paragraphs (2) and (3) of this subsection, to make payments, from time to time in ratable proportions, on account of the unpaid principal of all awards in the principal amount of more than \$1,000, according to the proportions which the unpaid principal of such awards bear to the total amount in the fund available for distribution at the time such payments are made; and

(5) after payment has been made of the principal amounts of all such awards, to make pro rata payments on account of accrued interest on such awards as bear interest.

(d) The Secretary of the Treasury, upon the concurrence of the Secretary of State, is authorized and directed, out of the sum covered into the Yugoslav Claims Fund pursuant to subsection (b) of this section, after completing the payments of such funds pursuant to subsection (c) of this section, to make payment of the balance of any sum remaining in such fund of the Government of the Federal People's

¹² Subsection (c) of Sec. 8 was amended by Sec. 4 of Public Law 90-421 (82 Stat. 420), approved July 24, 1968. It formerly read as follows:

"The Secretary of the Treasury is authorized and directed out of the sums covered into any of the funds pursuant to subsection (b) of this section, and after making the deduction provided for in section 7(b) of this Title—"

Republic of Yugoslavia to the extent required under article 1(c) of the Yugoslav Claims Agreement of 1948. The Secretary of State shall certify to the Secretary of the Treasury the total cost of adjudication, not borne by the claimants, attributable to the Yugoslav Claims Agreement of 1948. Such certification shall be final and conclusive and shall not be subject to review by any other official or department, agency, or establishment of the United States.

(e) ¹³ The Secretary of the Treasury is authorized and directed out of sums covered, subsequent to the date of enactment of this subsection, into any special fund created pursuant to this section to make payment on account of awards certified by the Commission pursuant to this title with respect to claims included within the terms of a claims settlement agreement concluded between the Government of the United States and a foreign government as described in subsection (a) of section 4 of this title, as follows and in the following order of priority:

“(1) Payment in the amount of \$1,000 or the principal amount of the award, whichever is less;

“(2) Thereafter, payments from time to time on account of the unpaid principal balance of each remaining award which shall bear to such unpaid principal balance the same proportion as the total amount available for distribution at the time such payments are made bears to the aggregate unpaid principal balance of all such awards; and

“(3) Thereafter, payments from time to time on account of the unpaid balance of each award of interest which shall bear to such unpaid balance of interest, the same proportion as the total amount available for distribution at the time such payments are made bears to the aggregate unpaid balance of interest of all such awards.”

SEC. 9. There is hereby authorized to be appropriated, out of any money in the Treasury not otherwise appropriated, such sums as may be necessary to enable the Commission to carry out its functions under this Title.

TITLE II ¹⁴

VESTING AND LIQUIDATION OF BULGARIAN, HUNGARIAN, AND RUMANIAN PROPERTY

SEC. 201. As used in this title the term—

(1) “Person” means a natural person, partnership, association, other unincorporated body, corporation, or body politic.

(2) “Property” means any property, right, or interest.

(3) “Treaty of peace,” with respect to a country, means the treaty of peace with that country signed at Paris, France, February 10, 1947,¹⁵ which came into force between that country and the United States on September 15, 1947.

SEC. 202. (a) In accordance with article 25 of the treaty of peace with Bulgaria, article 29 of the treaty of peace with Hungary, and

¹³ Subsection (e) was added to Sec. 8 by Sec. 5 of Public Law 90-421 (82 Stat. 420), approved July 24, 1968.

¹⁴ 22 U.S.C. 1631-1641g. Titles II and III were added by Public Law 83-285, approved Aug. 9, 1955.

¹⁵ 61 Stat., pt. 2.

article 27 of the treaty of peace with Rumania, any property which was blocked in accordance with Executive Order 8389 of April 10, 1940,¹⁶ as amended, and remains blocked on the effective date of this title, and which, as of September 15, 1947, was owned directly or indirectly by Bulgaria, Hungary, and Rumania or by any national thereof as defined in such Executive order, shall vest in such officer or agency as the President may from time to time designate¹⁷ and shall vest when, as, and upon such terms as the President or his designee shall direct. Such property shall be sold or otherwise liquidated as expeditiously as possible after vesting under such rules and regulations as the President or his designee may prescribe. The net proceeds remaining upon completion of the administration and liquidation thereof, including the adjudication of any suits or claims with respect thereto under sections 207 and 208, shall be covered into the Treasury. Notwithstanding the preceding provisions of this subsection, any such property determined by the President or his designee to be owned directly by a natural person shall not be vested under this subsection but shall remain blocked subject to release, when, as, and upon such terms as the President or his designee may prescribe. If, at any time within one year from the date of the vesting of any property under this subsection, the President or his designee shall determine that it was directly owned at the date of vesting by a natural person, then the President or his designee shall divest such property and restore it to its blocked status prior to vesting, subject to release when, as, and upon such terms as the President or his designee may prescribe, or if such property has been liquidated, shall divest the net proceeds thereof and carry them in blocked accounts with the Treasury, bearing no interest, in the name of the owner thereof at the date of vesting, subject to release when, as, and upon such terms as the President or his designee may prescribe.

(b) The net proceeds of any property which was vested in the Alien Property Custodian or the Attorney General after December 17, 1941, pursuant to the Trading With the Enemy Act, as amended,¹⁸ and which at the date of vesting was owned directly or indirectly by Bulgaria, Hungary, or Rumania, or any national thereof, shall after completion of the administration, liquidation, and disposition of such property pursuant to such Act, including the adjudication of any suits or claims with respect thereto under such Act, be covered into the Treasury, except that the net proceeds of any such property which

¹⁶ 5 F.R. 1400; 3 CFR. Cum. Supp., page 645.

¹⁷ Ex. Ord. No. 10644, Nov. 8, 1955, 20 F.R. 8363, as amended by Ex. Ord. No. 11281, May 13, 1966, 31 F.R. 7215, provided:

"SECTION 1. (a) With the exception of the functions referred to in subsection (b) of this section, the Attorney General, and, as designated by the Attorney General for this purpose, any Assistant Attorney General are hereby designated and empowered to perform the functions conferred by Title II of the International Claims Settlement Act of 1949 [this subchapter] upon the President, and the functions conferred by that title upon any designee of the President.

"(b) The Secretary of the Treasury, and any officer, person, agency or instrumentality designated by the Secretary of the Treasury for this purpose, are hereby designated and empowered to perform the functions conferred upon the President by section 202 of Title II [this section] with respect to the release of blocked property and of the net proceeds of property that are carried in blocked accounts with the Treasury.

"SEC. 2. The Attorney General is hereby designated as the officer in whom property shall vest under the said Title II [this subchapter].

"SEC. 3. As used in this order, the term "functions" includes duties, powers, responsibilities, authority, and discretion, and the term "perform" may be construed to include "exercise".

¹⁸ 40 Stat. 411; 50 U.S.C. App. 1.

the President or his designee shall determine was directly owned by a natural person at the date of vesting shall be divested by the President or such officer or agency as he may designate and carried in blocked accounts with the Treasury, bearing no interest, in the name of the owner thereof at the date of vesting, subject to release when, as, and upon such terms as the President or his designee may prescribe.

(c) The determination under this section that any vested property was not directly owned by a natural person at the date of vesting shall be within the sole discretion of the President or his designee and shall not be subject to review by any court.

(d) The President or his designee may require any person to furnish, in the form of reports or otherwise, complete information, including information with regard to past transactions, relative to any property blocked under Executive Order 8389 of April 10, 1940, as amended," or as may be otherwise necessary to enforce the provisions of this section; and the President or his designee may require of any person the production of any books of account, records, contracts, letters, memoranda, or other papers relative to such property or as may be otherwise necessary to enforce the provisions of this section.

SEC. 203. Whenever shares of stock or other beneficial interest in any corporation, association, or company or trust are vested in any officer or agency designated by the President under this title, it shall be the duty of the corporation, association, or company or trustee or trustees issuing such shares or any certificates or other instruments representing the same or any other beneficial interest to cancel such shares of stock or other beneficial interest upon its, his, or their books and in lieu thereof to issue certificates or other instruments for such shares or other beneficial interest to the designee of the President, or otherwise as such designee shall require.

SEC. 204. Any vesting order, or other order or requirement issued pursuant to this title, or a duly certified copy thereof, may be filed, registered, or recorded in any office for the filing, registering, or recording of conveyances, transfers, or assignments of such property as may be covered by such order or requirement; and if so filed, registered, or recorded shall impart the same notice and have the same force and effect as a duly executed conveyance, transfer, or assignment so filed, registered, or recorded.

SEC. 205. Any payment, conveyance, transfer, assignment, or delivery of property made to the President or his designee pursuant to this title, or any rule, regulation, instruction, or direction issued under this title, shall to the extent thereof be a full acquittance and discharge for all purposes of the obligation of the person making the same; and no person shall be held liable in any court for or in respect of any such payment, conveyance, transfer, assignment, or delivery made in good faith in pursuance of and in reliance on the provisions of this title, or of any rule, regulation, instruction, or direction issued thereunder.

SEC. 206. The district courts of the United States are given jurisdiction to make and enter all such rules as to notice and otherwise, and all such orders and decrees, and to issue such process as may be necessary and proper in the premises to enforce the provisions of this

title, with a right of appeal from the final order or decree of such court as provided in sections 1252, 1254, 1291, and 1292 of title 28, United States Code.

SEC. 207. (a) Any person who has not filed a notice of claim under subsection (b) of this section may institute a suit in equity for the return of any property, or the net proceeds thereof, vested in a designee of the President pursuant to section 202(a) and held by such designee. Such suit, to which said designee shall be made a party defendant, shall be instituted in the District Court of the United States for the District of Columbia or in the district court of the United States for the district in which the claimant resides, or, if a corporation, where it has its principal place of business, by the filing of a complaint which alleges—

(1) that the claimant is a person other than Bulgaria, Hungary, or Rumania, or a national thereof as defined in Executive Order 8389 of April 10, 1940, as amended;²⁰ and

(2) that the claimant was the owner of such property immediately prior to its vesting, or is the successor in interest of such owner by inheritance, devise, or bequest.

If the court finds in favor of the claimant, it shall order the payment, conveyance, transfer, assignment, or delivery to said claimant of such property, or the net proceeds thereof, held by said designee or the portion thereof to which the court shall determine said claimant is entitled. If suit shall be so instituted, then such property, or, if liquidated, the net proceeds thereof, shall be retained in the custody of said designee until any final judgment or decree which shall be entered in favor of the claimant shall be fully satisfied, or until final judgment or decree shall be entered against the claimant or suit otherwise terminated.

(b) Any person who has not instituted a suit under the provisions of subsection (a) of this section may file a notice of claim under oath for the return of any property, or the net proceeds thereof, vested in a designee of the President pursuant to section 202(a) and held by such designee. Such notice of claim shall be filed with said designee and in such form and containing such particulars as said designee shall require. Said designee may return any property so claimed, or the net proceeds thereof, whenever he shall determine—

(1) that the claimant is a person other than Bulgaria, Hungary, or Rumania, or a national thereof as defined in Executive Order 8389 of April 10, 1940, as amended; and

(2) that the claimant was the owner of such property immediately prior to its vesting, or is the successor in interest of such owner by inheritance, devise, or bequest.

Any person whose claim is finally denied in whole or in part by said designee may obtain review of such denial by filing a petition therefor in the United States Court of Appeals for the District of Columbia Circuit. Such petition for review must be filed within sixty days after the date of mailing of the final order of denial by said designee and a copy shall forthwith be transmitted to the said designee by the clerk of the court. Within forty-five days after receipt of such peti-

²⁰ 5 F.R. 1400 ; 3 CFR, Cum. Supp., page 645.

tion for review, or within such further time as the court may grant for good cause shown, said designee shall file an answer thereto, and shall file with the court the record of the proceedings with respect to such claim as provided in section 2112 of title 28, United States Code.²¹ The court may enter judgment affirming the order of the designee; or, upon finding that such order is not in accordance with law or that any material findings upon which such order is based are unsupported by substantial evidence, may enter judgment modifying or setting aside the order in whole or in part, and (1) directing a return of all or part of the property claimed, or (2) remanding the claim for further administrative proceedings thereon. If a notice of claim is filed under this subsection, the property which is the subject of such claim, or if liquidated, the net proceeds thereof, shall be retained in the custody of said designee until any final order of said designee or any final judgment or decree which shall be entered in favor of the claimant shall be fully satisfied, or until a final order of said designee or a final judgment or decree shall be entered against the claimant, or the claim or suit otherwise terminated.

(c) The sole relief and remedy of any person having any claim to any property vested pursuant to section 202(a), except a person claiming under section 216, shall be that provided by the terms of subsection (a) or (b) of this section, and in the event of the liquidation by sale or otherwise of such property, shall be limited to and enforced against the net proceeds received therefrom and held by the designee of the President.²² The claim of any person based on his ownership of shares of stock or other proprietary interest in a corporation which was the owner of property at the date of vesting thereof under sec. 202(a) shall be allowable under subsec. (a) or (b) of this section if 25 per centum or more of the outstanding capital stock or other proprietary interest in the corporation was owned at such date by nationals of countries other than Bulgaria, Hungary, Rumania, Germany, or Japan. But no such claim of a national of a foreign country shall be satisfied except after certification by the Department of State that the country of the national accords protection to nationals of the United States in similar types of cases.

(d) The designee of the President may retain or recover from any property, or the net proceeds thereof, returned pursuant to subsection (a) or (b) of this section an amount not exceeding that expanded or incurred by him for the conservation, preservation, or maintenance of such property or proceeds.

SEC. 208. (a) Any property vested in the designee of the President pursuant to section 202(a), or the net proceeds thereof, shall be equi-

²¹ The two foregoing sentences were revised by Public Law 85-791 (72 Stat. 951), approved August 28, 1958. They formerly read as follows: "Such petition for review must be filed within sixty days after the date of mailing of the final order of denial by said designee and a copy must be served on the said designee. Within forty-five days after service of such petition for review, or within such further time as the court may grant for good cause shown, said designee shall file an answer thereto, and shall certify and file with the court a transcript of the entire record of the proceedings with respect to such claim."

²² The first sentence of this section was amended by sec. 6 of Public Law 90-421 (82 Stat. 421), approved July 24, 1968. It formerly read as follows:

"The sole relief and remedy of any person having any claim to any property vested pursuant to sec. 202(a) shall be that provided by the terms of subsec. (a) or (b) of this section, and in any event of the liquidation by sale or otherwise of such property, shall be limited to and enforced against the net proceeds received therefrom and held by the designee of the President."

tably applied by such designee in accordance with this section to the payment of debts owed by the person who owned such property immediately prior to its vesting in such designee. No debt claim shall be allowed under this section—

(1) if it is asserted against Bulgaria, Hungary, or Rumania (including the government or any political subdivisions, agencies, or instrumentalities thereof); or

(2) if it is based upon an obligation expressed or payable in any currency other than the currency of the United States; or

(3) if it was not due and owing—

(A) on October 9, 1940, in the event the property in respect of which such debt claim is filed was owned immediately prior to vesting by a national of Rumania;

(B) on March 4, 1941, in the event the property in respect of which such debt claim is filed was owned immediately prior to vesting by a national of Bulgaria; or

(C) on March 13, 1941, in the event that the property in respect of which such debt claim is filed was owned immediately prior to vesting by a National of Hungary.

Any defense to the payment of such claim which would have been available to the debtor shall be available to the designee, except that the period from and after December 7, 1941, shall not be included for the purpose of determining the applicability of any statute of limitations. Debt claims allowable under this section shall include only those of natural persons who were citizens of the United States at the dates their debtors became obligated to them; those of other natural persons who are and have been continuously since December 7, 1941, residents of the United States; those of corporations organized under the laws of the United States or any State, Territory, or possession thereof, or the District of Columbia; and those acquired by the designee of the President under this title. Successors in interest by inheritance, devise, bequest, or operation of law of debt claimants, other than persons who would themselves be disqualified hereunder from allowance of a debt claim, shall be eligible for payment to the same extent as their principals or predecessors would have been.

(b) The designee of the President under this title shall fix a date or dates after which the filing of debt claims in respect of any or all debtors shall be barred, and may extend the time so fixed, and shall give at least sixty days' notice thereof by publication in the Federal Register. In no event shall the time extend beyond the expiration of one year from the date of the last vesting in the designee of the President of any property of a debtor in respect to whose debts the date is fixed. No debt shall be paid prior to expiration of one hundred and twenty days after publication of the first such notice in respect of the debtor, nor in any event shall any payment of a debt claim be made out of any property or proceeds in respect of which a suit or proceeding for return pursuant to this title is pending.

(c) The designee shall examine the claims, and such evidence in respect thereof as may be presented to him or as he may introduce into the record, and shall make a determination, with respect to each claim, of allowance or disallowance, in whole or in part. The determination of the designee that a claim is within either paragraph (1) or (2) of sub-

section (a) of this section shall be final and shall not be subject to judicial review, and such claim shall not be considered a debt claim for any purpose under this section.

(d) Payment of debt claims shall be made only out of such money included in, or received as net proceeds from the sale, use, or other disposition of, any property owned by the debtor immediately prior to its vesting in the designee of the President, as shall remain after deduction of (1) the amount of the expenses of the designee (including both expenses in connection with such property or proceeds thereof, and such portion as the designee shall fix of his other expenses), and of taxes, as defined in section 212, paid by the designee in respect to such property or proceeds; and (2) such amount, if any, as the designee may establish as a cash reserve for the future payment of such expenses and taxes. If the money available hereunder for the payment of debt claims against the debtor is insufficient for the satisfaction of all claims allowed by the designee, ratable payments shall be made in accordance with subsection (g) of this section to the extent permitted by the money available and additional payments shall be made whenever the designee shall determine that substantial further money has become available, through liquidation of any such property or otherwise. The designee shall not be required, through any judgment of any court, levy of execution, or otherwise, to sell or liquidate any property vested in him, for the purpose of paying or satisfying any debt claim.

(e) If the aggregate of debt claims filed as prescribed does not exceed the money from which, in accordance with subsection (d) of this section, payment may be made, the designee shall pay each claim to the extent allowed, and shall serve by registered mail, on each claimant whose claim is disallowed in whole or in part, a notice of such disallowance. Within sixty days after the date of mailing of the designee's determination, any debt claimant whose claim has been disallowed in whole or in part may file in the District Court of the United States for the District of Columbia a complaint for review of such disallowance naming the designee as defendant. Such complaint shall be served on the designee. The designee, within forty-five days after service on him, shall certify and file in said court a transcript of the record of proceedings with respect to the claim in question. Upon good cause shown such time may be extended by the court. Such record shall include the claim as filed, such evidence with respect thereto as may have been presented to the designee or introduced into the record by him, and the determination of the designee with respect thereto, including any findings made by him. The court may, in its discretion, take additional evidence, upon a showing that such evidence was offered to and excluded by the designee, or could not reasonably have been adduced before him or was not available to him. The court shall enter judgment affirming, modifying, or reversing the designee's determination, and directing payment in the amount, if any, which it finds due.

(f) If the aggregate of debt claims filed as prescribed exceeds the money from which, in accordance with subsection (d) of this section, payment may be made, the designee shall prepare and serve by registered mail on all claimants a schedule of all debt claims al-

lowed and the proposed payment to each claimant. In preparing such schedule, the designee shall assign priorities in accordance with subsection (g) of this section. Within sixty days after the date of mailing of such schedule, any claimant considering himself aggrieved may file in the District Court of the United States for the District of Columbia a complaint for review of such schedule, naming the designee as defendant. A copy of such complaint shall be served upon the designee and on each claimant named in the schedule. The designee, within forty-five days after service on him, shall certify and file in said court a transcript of the record of proceedings with respect to such schedule. Upon good cause shown such time may be extended by the court. Such record shall include the claims in question as filed, such evidence with respect thereto as may have been presented to the designee or introduced into the record by him, any findings or other determinations made by the designee with respect thereto, and the schedule prepared by the designee. The court may, in its discretion, take additional evidence, upon a showing that such evidence was offered to and excluded by the designee or could not reasonably have been adduced before him or was not available to him. Any interested debt claimant who has filed a claim with the designee pursuant to this section, upon timely application to the court, shall be permitted to intervene in such review proceedings. The court shall enter judgment affirming or modifying the schedule as prepared by the designee and directing payment, if any be found due, pursuant to the schedule as affirmed or modified and to the extent of the money from which, in accordance with subsection (d) of this section, payment may be made. Pending the decision of the court on such complaint for review, and pending final determination of any appeal from such decision, payment may be made only to an extent, if any, consistent with the contentions of all claimants for review.

(g) Debt claims shall be paid in the following order of priority: (1) Wage and salary claims, not to exceed \$600; (2) claims entitled to priority under sections 3466 and 3468 of the Revised Statutes (31 U.S.C., secs. 191 and 193), except as provided in subsection (h) of this section; (3) all other claims for services rendered; for expenses incurred in connection with such services, for rent, for goods and materials delivered to the debtor, and for payments made to the debtor for goods or services not received by the claimant; (4) all other debt claims. No payment shall be made to claimants within a subordinate class unless the money from which, in accordance with subsection (d) of this section, payment may be made, permits payment in full of all allowed claims in every prior class.

(h) No debt of any kind shall be entitled to priority under any law of the United States or any State, Territory, or possession thereof, or the District of Columbia, solely by reason of becoming a debt due or owing to the United States as a result of its acquisition by the designee of the President under this title.

(i) The sole relief and remedy available to any person seeking satisfaction of a debt claim out of any property vested in the designee under section 202(a), or the proceeds thereof, shall be the relief and remedy provided in this section, and suits for the satisfaction of debt claims shall not be instituted, prosecuted, or further maintained except

in conformity with this section. No person asserting any interest, right, or title in any property or proceeds acquired by the designee shall be barred from proceeding pursuant to this title for the return thereof, by reason of any proceeding which he may have brought pursuant to this section; nor shall any security interest asserted by the creditor in any such property or proceeds be deemed to have been waived solely by reason of such proceeding. Nothing contained in this section shall bar any person from the prosecution of any suit at law or in equity against the original debtor or against any other person who may be liable for the payment of any debt for which a claim might have been filed hereunder. No purchaser, lessee, licensee, or other transferee of any property from the designee shall, solely by reason of such purchase, lease, license, or transfer, become liable for the payment of any debt owed by the person who owned such property prior to its vesting in the designee. Payment by the designee to any debt claimant shall constitute, to the extent of payment, a discharge of the indebtedness represented by the claim.

SEC. 209. The officer or agency designated by the President under this title to entertain claims under section 207(b) and section 208 shall have power to hold such hearings as may be deemed necessary; to prescribe rules and regulations governing the form and contents of claims, the proof thereof, and all other matters related to proceedings on such claims; and in connection with such proceedings to issue subpoenas, administer oaths, and examine witnesses. Such powers, and any other powers conferred upon such officer or agency by section 207(b) and section 208, may be exercised through subordinate officers designated by such officer or agency.

SEC. 210. No suit may be instituted pursuant to section 207(a) after the expiration of one year from the date of vesting of the property in respect of which relief is sought. No return may be made pursuant to section 207(b) unless notice of claim has been filed within one year from the date of vesting of the property in respect of which the claim is filed.

SEC. 211. No property or proceeds shall be returned under this title, nor shall any payment be made or judgment awarded in respect of any property vested in any officer or agency designated by the President under this title unless satisfactory evidence is furnished to said designee, or the court, as the case may be, that the aggregate of the fees to be paid to all agents, attorneys at law or in fact, or representatives, for services rendered in connection with such return or payment or judgment does not exceed 10 per centum of the value of such property or proceeds or of such payment. Any agent, attorney at law or in fact, or representative, believing that the aggregate of the fees should be in excess of such 10 per centum may, in the case of any return of, or the making of any payment in respect of, such property or proceeds by the President or such officer or agency as he may designate, petition the district court of the United States for the district in which he resides for an order authorizing fees in excess of 10 per centum and shall name such officer or agency as respondent. The court hearing such petition or a court awarding any judgment in respect of any such property or proceeds, as the case may be, shall approve an aggregate of fees in excess of 10 per centum of the value of such prop-

erty or proceeds only upon a finding that there exist special circumstances of unusual hardship which require the payment of such excess. Any person accepting any fee in excess of an amount approved under this section, or retaining for more than thirty days any portion of a fee, accepted prior to such approval, in excess of the fee as approved, shall be guilty of a violation of this title.

SEC. 212. (a) The vesting in any officer or agency designated by the President under this title of any property or the receipt by such designee of any earnings, increment, or proceeds thereof shall not render inapplicable any Federal, State, Territorial, or local tax for any period before or after such vesting.

(b) The officer or agency designated by the President under this title shall, notwithstanding the filing of any claim or the institution of any suit under this title, pay any tax incident to any such property, or the earnings, increment, or proceeds thereof, at the earliest time appearing to him to be not contrary to the interest of the United States. The former owner shall not be liable for any such tax accruing while such property, earnings, increment, or proceeds are held by such designee, unless they are returned pursuant to this title without payment of such tax by the designee. Every such tax shall be paid by the designee to the same extent, as nearly as may be deemed practicable, as though the property had not been vested, and shall be paid only out of the property, or earnings, increment, or proceeds thereof, to which they are incident or out of other property acquired from the same former owner, or earnings, increment, or proceeds thereof. No tax liability may be enforced from any property or the earnings, increment, or proceeds thereof while held by the designee except with his consent. Where any property is transferred, otherwise than pursuant to section 207(a) or 207(b) hereof, the designee may transfer the property free and clear of any tax, except to the extent of any lien for a tax existing and perfected at the date of vesting, and the proceeds of such transfer shall, for tax purposes, replace the property in the hands of the designee.

(c) Subject to the provisions of subsection (b) of this section, the manner of computing any Federal taxes, including without limitation by reason of this enumeration, the applicability in such computation of credits, deductions, and exemptions to which the former owner is or would be entitled, and the time and manner of any payment of such taxes and the extent of any compliance by the designee with provisions of Federal law and regulations applicable with respect to Federal taxes, shall be in accordance with regulations prescribed by the Secretary of the Treasury to effectuate this section. Statutes of limitations on assessments, collection, refund, or credit of Federal taxes shall be suspended with respect to any vested property or the earnings, increment, or proceeds thereof, while vested and for six months thereafter; but no interest shall be paid upon any refund with respect to any period during which the statute of limitations is so suspended.

(d) The word "tax" as used in this section shall include, without limitation by reason of this enumeration, any property, income, excess-profits, war-profits, excise, estate, and employment tax, import duty, and special assessment; and also any interest, penalty, additional amount, or addition thereto not arising from any act, omission, neglect, failure, or delay on the part of the designee.

SEC. 213. Prior to covering the net proceeds of liquidation of any property into the Treasury pursuant to section 202(a), the designee of the President under this title shall determine—

(1) the amount of his administrative expenses attributable to the performance of his functions under this title with respect to such property and the proceeds thereof. The amount so determined, together with an amount not exceeding that expended or incurred for the conservation, preservation, or maintenance of such property and the proceeds thereof, and for taxes in respect of same, shall be deducted and retained by the designee from the proceeds otherwise covered into the Treasury; and

(2) that the time for the institution of a suit under section 207(a), for the filing of a notice of claim under section 207(b), and for the filing of debt claims under section 208 has elapsed.

The determinations of the designee under this section shall be final and conclusive.

SEC. 214. No property conveyed, transferred, assigned, delivered, or paid to the designee of the President under this title, or the net proceeds thereof, shall be liable to lien, attachment, garnishment, trustee process, or execution, or subject to any order or decree of any court, except as provided in this title.

SEC. 215. Whoever shall willfully violate any provision of this title or any rule or regulation issued hereunder, and whoever shall willfully violate, neglect, or refuse to comply with any order of the President or of a designee of the President under this title, issued in compliance with the provisions of this title shall be fined not more than \$5,000, or, if a natural person, imprisoned for not more than five years, or both; and the officer, director, or agent of any corporation who knowingly participates in such violation shall be punished by a like fine, imprisonment, or both.

SEC. 216.²³ (a) Notwithstanding any other provision of this Act or any provision of the Trading With the Enemy Act, as amended, any person (1) who was formerly a National of Bulgaria, Hungary, or Rumania, and (2) who, as a consequence of any law, decree, or regulation of the nation of which he was a national discriminating against political, racial or religious groups, at no time between December 7, 1941, and the time when such law, decree, or regulation was abrogated enjoyed full rights of citizenship under the law of such nation, shall be eligible hereunder to receive the return of his interest in property which was vested under section 202(a) hereof or under the Trading With the Enemy Act, as amended, as the property of a corporation organized under the laws of Bulgaria, Hungary, or Rumania if 25 per centum or more of the outstanding capital stock of such corporation was owned at the date of vesting by such persons and nationals of countries other than Bulgaria, Hungary, Rumania, Germany, or Japan, or if such corporation was subjected after December 7, 1941, under the laws of its country, to special wartime measures directed against it because of the enemy character of some or all of its stockholders; and no certificate by the Department of State as provided under section 207(c) hereof shall be required for such persons.

²³ Section 216 was added by Sec. 7 of Public Law 90-421 (82 Stat. 421), approved July 24, 1968.

(b) An interest in property vested under the Trading With the Enemy Act, as amended, as the property of a corporation organized under the laws of Bulgaria, Hungary, or Rumania shall be subject to return under subsection (a) of this section only if a notice of claim for the return of any such interest has been timely filed under the provisions of section 33 of that Act, provided that application may be made therefore within six months after the date of enactment hereof. In the event such interest has been liquidated and the net proceeds thereof transferred to the Bulgarian Claims Fund, Hungarian Claims Fund, or Rumanian Claims Fund, the net proceeds of any other interest representing vested property held in the United States Treasury may be used for the purpose of making the return hereunder.

(c) Determinations by the designee of the President or any other officer or agency with respect to claims under this section, including the allowance or disallowance thereof, shall be final and shall not be subject to review by any court.

TITLE III ²⁴

CLAIMS AGAINST BULGARIA, HUNGARY, RUMANIA, ITALY, AND THE SOVIET UNION

SEC. 301. As used in this title the term—

(1) "Person" means a natural person, partnership, association, other unincorporated body, corporation, or body politic.

(2) "National of the United States" means (A) a natural person who is a citizen of the United States or who owes permanent allegiance to the United States, and (B) a corporation or other legal entity which is organized under the laws of the United States, any State or Territory thereof, or the District of Columbia, if natural persons who are nationals of the United States own, directly or indirectly, more than 50 per centum of the outstanding capital stock or other beneficial interest in such legal entity. It does not include aliens.

(3) "Treaty of peace", with respect to a country, means the treaty of peace with that country signed at Paris, France, February 10, 1947,²⁵ which came into force between that country and the United States on September 15, 1947.

(4) "Memorandum of Understanding" means the Memorandum of Understanding between the United States and Italy regarding Italian assets in the United States and certain claims of nationals of the United States, signed at Washington, District of Columbia, August 14, 1947 (61 Stat. 3962).

(5) "Soviet Government" means the Union of Soviet Socialist Republics, including any of its present or former constituent republics, other political subdivisions, and any territories thereof, as constituted on or prior to November 16, 1933.

(6) "Litvinov Assignment" means (A) the communications dated November 16, 1933, from Maxim Litvinov to President Franklin D. Roosevelt, wherein the Soviet Government assigned to the Government of the United States amounts admitted or found to be due it as the successor of prior governments of Russia, or otherwise, pre-

²⁴ 22 U.S.C., chapter 21, subchapter III.

²⁵ 61 Stat., pt. 2.

paratory to a final settlement of the claims outstanding between the two Governments and the claims of their nationals; (B) the communication dated November 16, 1933, from President Franklin D. Roosevelt to Maxim Litvinov, accepting such assignment; and (C) the assignments executed by Serge Ughet on August 25, 1933, and November 15, 1933, assigning certain assets to the Government of the United States.

(7) "Russian national" includes any corporation or business association organized under the laws, decrees, ordinances or acts of the former Empire of Russia or of any government successor thereto, and subsequently nationalized or dissolved or whose assets were taken over by the Soviet Government or which was merged with any other corporation or organization by the Soviet Government.

(8) "Commission" means the Foreign Claims Settlement Commission of the United States, established pursuant to Reorganization Plan Numbered 1 of 1954 (68 Stat. 1279).²⁶

(9) "Property" means any property, right, or interest.

Sec. 302. (a) There are hereby created in the Treasury of the United States five funds to be known as the Bulgarian Claims Fund, the Hungarian Claims Fund, the Rumanian Claims Fund, the Italian Claims Fund, and the Soviet Claims Fund. The Secretary of the Treasury shall cover into each of the Hungarian, Rumanian, and Bulgarian Claims Funds, the funds attributable to the respective country or its nationals covered into the Treasury pursuant to subsections (a) and (b) of section 202 of this Act. The Secretary of the Treasury shall cover into the Italian Claims Fund the sum of \$5,000,000 paid to the United States by the Government of Italy pursuant to article II of the Memorandum of Understanding.²⁷ The Secretary shall cover into the Treasury the funds collected by the United States pursuant to the Litvinov Assignment (including postal funds due prior to November 16, 1933, to the Union of Soviet Socialist Republics because of money orders certified to that country for payment) and shall cover into the Soviet Claims Fund the funds so covered into the Treasury. The Secretary shall deduct from each claims fund 5 per centum thereof as reimbursement to the Government of the United States for the expenses incurred by the Commission and by the Treasury Department in the administration of this title. Such deduction shall be made before any payment is made out of such fund under section 310. All amounts so deducted shall be covered into the Treasury to the credit of miscellaneous receipts.

(b)²⁸ The Secretary of the Treasury shall cover into each of the Bulgarian and Rumanian Claims Funds such sums as may be paid by the Government of the respective country pursuant to the terms of any claims settlement agreement between the Government of the United States and the Government of such country.

(c)²⁹ The Secretary of the Treasury shall cover into the Hungarian Claims Fund, such sums as may be paid to the United States by the

²⁶ 22 U.S.C. 1622 note.

²⁷ 61 Stat. 3962.

²⁸ Subsection (b) was added to Sec. 302 by Sec. 8 of Public Law 90-421 (82 Stat. 422), approved July 24, 1968.

²⁹ Subsection (c) was added to Sec. 302 by Sec. 1 (1) of Public Law 93-460 (88 Stat. 1386), approved October 20, 1974.

Government of Hungary pursuant to the terms of the United States-Hungarian Claims Agreement of March 6, 1973.³⁰

SEC. 303. The Commission shall receive and determine in accordance with applicable substantive law, including international law, the validity and amounts of claims of nationals of the United States against the Governments of Bulgaria, Hungary, and Rumania, or any of them, arising out of the failure to—

(1) restore or pay compensation for property of nationals of the United States as required by article 23 of the treaty of peace with Bulgaria, articles 26 and 27 of the treaty of peace with Hungary, and articles 24 and 25 of the treaty of peace with Rumania.³¹ Awards under this paragraph shall be in amounts not to exceed two-thirds of the loss or damage actually sustained;

(2) pay effective compensation for the nationalization, compulsory liquidation, or other taking, prior to the effective date of this title, of property of nationals of the United States in Bulgaria, Hungary, and Rumania;

(3) meet obligations expressed in currency of the United States arising out of contractual or other rights acquired by nationals of the United States prior to April 24, 1941, in the case of Bulgaria, and prior to September 1, 1939, in the case of Hungary and Rumania, and which became payable prior to September 15, 1947;

(4)³² pay effective compensation for the nationalization, compulsory liquidation, or other taking of property of nationals of the United States in Bulgaria and Rumania, between August 9, 1955, and the effective date of the claims agreement between the respective country and the United States; and

(5)³³ pay effective compensation for the nationalization, compulsory liquidation, or other taking of property of nationals of the United States in Hungary, between August 9, 1955, and the date the United States-Hungarian Claims Agreement of March 6, 1973, enters into force.³⁴

SEC. 304. (a) The Commission shall receive and determine, in accordance with the Memorandum of Understanding³⁴ and applicable substantive law including international law, the validity and amount of claims of nationals of the United States against the Government of Italy arising out of the war in which Italy was engaged from June 10, 1940, to September 15, 1947, and with respect to which provision was not made in the treaty of peace with Italy. Upon payment of the principal amounts (without interest) of all awards from the Italian Claims Fund created pursuant to section 302 of this Act, the Commission shall determine the validity and amount of any claim under this section by any natural person who was a citizen of the United States on the date of enactment of this title and shall, in the event an award is issued pursuant to such claims, certify the same to the Secretary of the Treasury for payment out of remaining balances in the Italian Claims Fund in accordance with the provisions of

³⁰ TIAS 7569; 24 UST 522.

³¹ 61 Stat., pt. 2.

³² Paragraph (4) was added to Sec. 303 by Sec. 10 of Public Law 90-421 (82 Stat. 422), approved July 24, 1968.

³³ Paragraph (5) was added to Sec. 303 by Sec. 1 (3) of Public Law 93-460 (88 Stat. 1386), approved October 20, 1974.

³⁴ 61 Stat. 3902.

section 310 of this Act, notwithstanding that the period of time prescribed in section 316 of this Act for the settlement of all claims under this section may have expired.³⁵

(b)³⁶ The Commission shall receive and determine, or redetermine, as the case may be, in accordance with applicable substantive law, including international law, the validity and amounts of claims owned by persons who were eligible to file claims under the first sentence of subsection (a) of this section on the date of enactment of this title, but failed to file such claims or, if they filed such claims, failed to file such claims within the limit of time required therefor: *Provided*, That no awards shall be made to persons who have received compensation in any amount pursuant to the treaty of peace with Italy, subsection (a) of this section, or section 202 of the War Claims Act of 1948, as amended.

(c)³⁶ The Commission shall receive and determine, or redetermine as the case may be, in accordance with applicable substantive law, including international law, the validity and amounts of claims owned by persons who were nationals of the United States on September 3, 1943, and the date of enactment of this subsection, against the Government of Italy which arose out of the war in which Italy was engaged from June 10, 1940, to September 15, 1947, in territory ceded by Italy pursuant to the treaty of peace with Italy: *Provided*, That no awards shall be made to persons who have received compensation in any amount pursuant to the treaty of peace with Italy or subsection (a) of this section.

(d)³⁶ Within thirty days after enactment of this subsection, or within thirty days after the date of enactment of legislation making appropriations to the Commission for payment of administrative expenses incurred in carrying out its functions under subsections (b) and (c) of this section, whichever date is later, the Commission shall publish in the Federal Register the time when and the limit of time within which claims may be filed with the Commission, which limit shall not be more than six months after such publication.

(e)³³ The Commission shall certify awards on claims determined pursuant to subsection (b) and (c) of this section to the Secretary of the Treasury for payment out of remaining balances in the Italian Claims Fund in accordance with the provisions of section 310 of this title, after payment in full of all awards certified pursuant to subsection (a) of this section.

(f)³³ After payment in full of all awards certified to the Secretary of the Treasury pursuant to subsections (a) and (e) of this section, the Secretary of the Treasury is authorized and directed to transfer the unobligated balance in the Italian Claims Fund into the War Claims Fund created by section 13 of the War Claims Act of 1948, as amended.

SEC. 305. (a) The Commission shall receive and determine in accordance with applicable substantive law, including international law, the validity and amounts of—

(1) claims of nationals of the United States against a Russian national originally accruing in favor of a national of the United

³⁵ The last sentence in this subsection was added by Public Law 85-604.

³⁶ Subsections (b), (c), (d), (e), (f) of Sec. 304 were added by Sec. 11 of Public Law 90-421 (82 Stat. 422), approved July 24, 1968.

States with respect to which a judgment was entered in, or a warrant of attachment issued from, any court of the United States or of a State of the United States in favor of a national of the United States, with which judgment or warrant of attachment a lien was obtained by a national of the United States, prior to November 16, 1933, upon any property in the United States which has been taken, collected, recovered, or liquidated by the Government of the United States pursuant to the Litvinov Assignment. Awards under this paragraph shall not exceed the proceeds of such property as may have been subject to the lien of the judgment or attachment; nor, in the event that such proceeds are less than the aggregate amount of all valid claims so related to the same property, exceed an amount equal to the proportion which each such claim bears to the total amount of such proceeds; and

(2) claims, arising prior to November 16, 1933, of nationals of the United States against the Soviet Government.

(b) Any judgment entered in any court of the United States or of a State of the United States shall be binding upon the Commission in its determination, under paragraph (1) of subsection (a) of this section, of any issue which was determined by the court in which the judgment was entered.

(c) The Commission shall give preference to the disposition of the claims referred to in paragraph (1) of subsection (a) of this section, over all other claims presented to it under this title.

SEC. 306. (a) Within sixty days after the date of enactment of this title, or within sixty days after the date of enactment of legislation making appropriations to the Commission for payment of administrative expenses incurred in carrying out its functions under paragraph (1), (2), or (3) of section 303 of this title, whichever date is later, the Commission shall publish in the Federal Register the time when and the limit of time within which claims may be filed under this title, which limit shall not be more than one year after such publication, except that with respect to claims under section 305 this limit shall not exceed six months.

(b) ³⁷ Within thirty days after enactment of this subsection or the enactment of legislation making appropriations to the Commission for payment of administrative expenses incurred in carrying out its functions under paragraph (4) of section 303 of this title, whichever is later, the Commission shall publish in the Federal Register the time when and the limit of time within which claims may be filed under paragraph (4) of section 303 of this title, which limit shall not be more than six months after such publication.

(c) ³⁸ Within thirty days after enactment of this subsection, or thirty days after enactment of legislation making appropriations to the Commission for payment of administrative expenses incurred in carrying out its functions under paragraph (5) of section 303, whichever date is later, the Commission shall publish in the Federal Register the time when, and the limit of time within which, claims may be filed

³⁷ Subsection (b) of section 306 was added by section 12 of Public Law 90-421 (82 Stat. 423), approved July 24, 1968.

³⁸ Subsections (c) and (d) of section 306 were added by section 1 (4) of Public Law 93-460 (88 Stat. 1386), approved October 20, 1974.

with the Commission under paragraph (5) of section 303, which limit shall not be more than six months after such publication.

(d) ³⁸ Notwithstanding any other provision of this section, any national of the United States who was mailed notice by any department or agency of the Government of the United States with respect to filing a claim against the Government of Hungary arising out of any of the failures referred to in paragraph (1), (2), or (3) of section 303 of this title, and who did not receive the notice as the result of administrative error in placing a nonexistent address on the notice, may file with the Commission a claim under any such paragraph. The Commission shall publish in the Federal Register, within thirty days after enactment of this paragraph, when the limit of time within which any such claim may be filed with the Commission, which limit shall not be more than six months after such publication.

SEC. 307. The amount of any award made pursuant to this title based on a claim of a national of the United States other than the national of the United States to whom the claim originally accrued shall not exceed the amount of the actual consideration last paid therefor either prior to January 1, 1953, or between that date and the filing of the claim, whichever is less.

SEC. 308. The Commission shall as soon as possible, and in the order of the making of such awards, certify to the Secretary of the Treasury, in terms of United States currency, each award made pursuant to this title.

SEC. 309. All payments authorized under this title shall be disbursed exclusively from the claims funds attributable to the country with respect to which the claims are allowed pursuant to this title. All amounts covered into the Treasury to the credit of the claims funds created by section 302 are hereby permanently appropriated for the making of the payments authorized under this title.

SEC. 310. (a) The Secretary of the Treasury shall make payments on account of awards certified by the Commission pursuant to this title as follows:

(1) Payment in full of the principal amount of each award made pursuant to section 305(a) (1) and each award of \$1,000 or less made pursuant to section 303 or 304;

(2) Payment in full of the principal amount of each award of \$1,000 or less made pursuant to section 305(a) (2);

(3) Payment in the amount of \$1,000 on account of the principal of each award of more than \$1,000 in amount made pursuant to section 303, 304, or 305(a) (2);

(4) After completing the payments under the preceding paragraphs of this subsection from any one fund, payments from time to time, in ratable proportions, on account of the then unpaid principal of all awards in the principal amount of more than \$1,000, according to the proportions which the unpaid principal of such awards bear to the total amount in the fund available for distribution on account of such awards at the time such payments are made;

(5) After payment has been made in full of the principal amounts of all awards from any one fund, pro rata payments from the re-

mainder of such fund then available for distribution on account of accrued interest on such award as bear interest.

(6)³⁹ Whenever the Commission is authorized to settle claims by the enactment of paragraph (4) of section 303 of this title with respect to Rumania and Bulgaria, no further payments shall be authorized by the Secretary of the Treasury on account of awards certified by the Commission pursuant to paragraph (1), (2), or (3) of section 303 of the Bulgarian or Rumanian Claims Funds, as the case may be, until payments on account of awards certified pursuant to paragraph (4) of section 303 with respect to such fund have been authorized in equal proportion to payments previously authorized on existing awards certified pursuant to paragraphs (1), (2), and (3) of section 303.

(7)⁴⁰ (A) Except as otherwise provided in subparagraph (D), whenever the Commission is authorized to settle claims by enactment of paragraph (5) of section 303 of this title with respect to Hungary, no further payments shall be authorized by the Secretary of the Treasury on account of awards certified by the Commission under paragraphs (2) and (3) of section 303 out of the Hungarian Claims Fund until payments on account of awards certified under paragraph (5) of section 303 with respect to such fund have been authorized in equal proportions to payments previously authorized on existing awards certified under paragraphs (2) and (3) of section 303.

(B) Except as otherwise provided in subparagraph (D), with respect to awards previously certified under paragraph (1) of section 303, the Secretary of the Treasury shall not authorize any further payments until payments on account of awards certified under paragraphs (2), (3), and (5) of section 303 have been authorized in equal proportions to payments previously authorized on existing awards certified under paragraph (1) of section 303.

(C) Except as otherwise provided in subparagraph (D), the Secretary of the Treasury shall not authorize any further payments on account of awards certified under paragraph (3) of section 303 based on Kingdom of Hungary bonds expressed in United States dollars or upon awards to Standstill creditors of Hungary that were the subject matter of the agreement of December 6, 1969, between the Government of Hungary and the American Committee for Standstill creditors of Hungary.

(D) No payments shall be authorized by the Secretary of the Treasury on account of awards certified by the Commission under paragraph (5) of section 303 of this title, and no further payments shall be so authorized under paragraphs (1), (2), or (3) of section 303 (except payments certified as the result of claims filed under subsection (d) of section 306), until payments on account of awards certified under such paragraphs (1), (2), and (3) as the result of a claims filed under subsection (d) of section 306 have been authorized in equal proportions to payments previously authorized on existing awards certified under such paragraphs and arising out of claims filed other than under such subsection (d).

³⁹ Paragraph (6) was added to section 310 by section 13 of Public Law 90-421 (82 Stat. 423), approved July 24, 1968.

⁴⁰ Paragraph (7) was added to section 310 by section 1 (5) of Public Law 93-460 (88 Stat. 1386), approved October 20, 1974.

(E) The Secretary of the Treasury is authorized and directed to deduct the sum of \$125,000 from the Hungarian Claims Fund and cover such amount into the Treasury to the credit of miscellaneous receipts in satisfaction of the claim of the United States referred to in article 2, paragraph 4 of the United States-Hungarian Claims Agreement of March 6, 1973. Such amount shall be deducted in annual installments over the period during which the Government of Hungary makes payments to the Government of the United States as provided in article 4 of the agreement.

(b) Such payments, and applications for such payments, shall be made in accordance with such regulations as the Secretary of the Treasury shall prescribe.

(c) For the purposes of making any such payments, an "award" shall be deemed to mean the aggregate of all awards certified in favor of the same claimant and payable from the same fund.

(d) With respect to any claim which, at the time of the award, is vested in persons other than the person to whom the claim originally accrued, the Commission may issue a consolidated award in favor of all claimants then entitled thereto, which award shall indicate the respective interests of such claimants therein; and all such claimants shall participate, in proportion to their indicated interests, in the payments provided by this section in all respects as if the award had been in favor of a single person.

SEC. 311. (a) If a corporation or other legal entity has a claim on which an award may be made under this title, no award may be made to any other person under this title with respect to such claim.

(b) A claim based upon an interest, direct or indirect, in a corporation or other legal entity which directly suffered the loss with respect to which the claim is asserted, but which was not a national of the United States at the time of the loss, shall be acted upon without regard to the nationality of such legal entity if at the time of the loss at least 25 per centum of the outstanding capital stock or other beneficial interest in such entity was owned, directly or indirectly, by natural persons who were nationals of the United States. This subsection shall not be construed so as to exclude from eligibility a claim based upon a direct ownership interest in a corporation, association, or other entity, or the property thereof, for loss by reason of the nationalization, compulsory liquidation, or other taking of such corporation, association, or other entity by the Governments of Bulgaria, Hungary, Italy, Rumania, or the Soviet Government. Any such claim may be allowed without regard to the per centum of ownership vested in the claimant.⁴¹

SEC. 312. No award shall be made under this title to or for the benefit of any person who voluntarily, knowingly, and without duress, gave aid to or collaborated with or in any manner served any government hostile to the United States during World War II, or who has been convicted of a violation of any provision of chapter 115, of title

⁴¹ The last sentence in sec. 311(b) was added by Public Law 85-604. Section 3(b) of Public Law 85-604 also provided that "Any claim heretofore denied under subsection (b) of section 311 of the International Claims Settlement Act of 1949, as amended, prior to the date of enactment of this section, shall be reconsidered by the Foreign Claims Settlement Commission solely to redetermine its validity and amount by reason of the amendments made by this section."

18, of the United States Code,⁴² or of any other crime involving disloyalty to the United States.

SEC. 313. Payment of any award made pursuant to section 303 or 305 shall not, unless such payment is for the full amount of the claim, as determined by the Commission to be valid, with respect to which the award is made, extinguish such claim, or be construed to have divested any claimant, or the United States on his behalf, of any rights against the appropriate foreign government or national for the unpaid balance of his claim or for restitution of his property. All awards or payments made pursuant to this title shall be without prejudice to the claims of the United States against any foreign government.

SEC. 314. The action of the Commission in allowing or denying any claim under this title shall be final and conclusive on all questions of law and fact and not subject to review by any other official of the United States or by any court by mandamus or otherwise, and the Comptroller General shall allow credit in the accounts of any certifying or disbursing officer for payments in accordance with such action.

SEC. 315. There are hereby authorized to be appropriated such sums as may be necessary to enable the Commission and the Treasury Department to pay their administrative expenses incurred in carrying out their functions under this title.

SEC. 316. (a) The Commission shall complete its affairs in connection with the settlement of claims pursuant to section 305(a) (1) not later than two years, and all other claims pursuant to this title not later than four years, following the date of enactment of this title, or following the date of enactment of legislation making appropriations to the Commission for the payment of administrative expenses incurred in carrying out its functions under this title, whichever date is later.

(b)⁴³ The Commission shall complete its affairs in connection with the settlement of claims pursuant to paragraph (4) of section 303 and subsections (b) and (c) of section 304 of this title not later than two years following the date of enactment of such paragraph, or following the enactment of legislation making appropriations to the Commission for payment of administrative expenses incurred in carrying out its functions under paragraph (4) of section 303 and subsections (b) and (c) of section 304 of this title, whichever is later.

(c)⁴⁴ The Commission shall complete its affairs in connection with the settlement of claims pursuant to paragraph (5) of section 303 of this title not later than two years following the deadline established under subsection (c) of section 306 of this title.

SEC. 317. (a) The total remuneration paid to all agents, attorneys-at-law or in fact, or representatives, for services rendered on behalf of any claimant in connection with any claim filed with the Commission shall not exceed 10 per centum of the total amount paid under this title on account of such claim, or such greater amount as may be determined pursuant to subsection (b) of this section. Any agreement to the contrary shall be unlawful and void. Whoever, in the United States or elsewhere, demands or receives, on account of services so

⁴² 62 Stat. 807.

⁴³ Subsection (b) was added to section 316 by section 14 of Public Law 90-421 (82 Stat. 423), approved July 24, 1968.

⁴⁴ Subsection (c) was added by section 1(6) of Public Law 93-460 (88 Stat. 1386), approved October 20, 1974.

rendered, any remuneration which, together with all remuneration paid to other persons on account of such services and of which he has notice, is in excess of the maximum permitted by this section, shall be fined not more than \$5,000 or imprisoned not more than twelve months, or both.

(b) Not later than three months after the Commission has completed its affairs in connection with the settlement of all claims payable from the fund from which an award is payable, any agent, attorney at law or in fact, or representative who believes that the total remuneration for services rendered in connection with the claim upon which such award is made should exceed the maximum otherwise permitted by this section may, pursuant to such procedure as the Commission shall prescribe by regulation, petition the Commission for an order authorizing the payment of remuneration in excess of such maximum. The Commission shall issue such an order only upon a finding that there exist special circumstances of unusual hardship which require the payment of such excess; and such order shall state the amount of the excess which may so be paid. The determination of the Commission in ruling upon such petition shall be within the sole discretion of the Commission and shall not be subjected to review by any court.

SEC. 318. The following provisions of title I shall be applicable to this title: Subsections (b), (c), (d), (e), (h), and (j) of section 4; and subsections (c), (d), (e), and (f) of section 7.

TITLE IV ⁴⁵

CLAIMS AGAINST CZECHOSLOVAKIA

SEC. 401. As used in this title—

(1) "National of the United States," means (A) a natural person who is a citizen of the United States, or who owes permanent allegiance to the United States, and (B) a corporation or other legal entity which is organized under the laws of the United States, any State or Territory thereof, or the District of Columbia, if natural persons who are nationals of the United States own, directly, or indirectly, more than 50 per centum of the outstanding capital stock or other beneficial interest in such legal entity. It does not include aliens. (2) "Commission" means the Foreign Claims Settlement Commission of the United States, established, pursuant to Reorganization Plan Numbered 1 of 1954 (68 Stat. 1279). (3) "Property" means any property, right, or interest.

SEC. 402. (a) The Secretary of the Treasury is directed to hold, in an account in the Treasury of the United States, the net proceeds of the sale of certain Czechoslovakian steel mill equipment heretofore blocked and sold in the United States by order of the Secretary of Treasury under authority of Executive Order Numbered 9193, dated July 6, 1942 (7 F.R. 5205, July 9, 1942).

(b) There is hereby created in the Treasury of the United States a fund to be designated the Czechoslovakian Claims Fund, for the

⁴⁵ Title IV was added by Public Law 85-604, approved August 8, 1958.

payment of unsatisfied claims of nationals of the United States against Czechoslovakia as authorized in this title.

(c) If, within one year following the date of enactment of this title, the Government of Czechoslovakia voluntarily settles with and pays to the Government of the United States a sum in payment of claims of United States nationals against Czechoslovakia, all moneys held pursuant to subsection (a) of this section will be disposed of in accordance with the terms of the settlement agreement with Czechoslovakia and applicable provisions of this title and the sum paid by Czechoslovakia shall be covered into the Czechoslovakian Claims Fund.

(d) Upon the expiration of one year after the date of enactment of this title if no settlement with Czechoslovakia of the type specified in subsection (c) of this section has occurred, all moneys held pursuant to subsection (a) of this section except amounts held in reserve pursuant to section 403 of this title, shall be covered into the Czechoslovakian Claims Fund.

(e) The Secretary of the Treasury shall deduct from the Czechoslovakian Claims Fund 5 per centum thereof as reimbursement to the Government of the United States for the expenses incurred by the Commission and by the Treasury Department in the administration of this title. The amount so deducted shall be covered into the Treasury to the credit of miscellaneous receipts.

(f) After the deduction for administrative expenses pursuant to subsection (e) of this section, and after payment of awards certified pursuant to section 410 of this title, the balance remaining in the Fund, if any, shall be paid to Czechoslovakia in accordance with instructions to be provided by the Secretary of State.

SEC. 403. No judicial relief or remedy shall be available to any person asserting a claim against the United States or any officer or agent thereof with respect to any action taken under this title, or any other claim for or on account of the property or proceeds described in section 402 of this title, or for any other action taken with respect thereto except to the extent that the action complained of constitutes a taking of private property without just compensation, and to such extent the sole judicial relief and remedy available shall be an action brought against the United States in the United States Court of Claims which action must be brought within one year of the date of enactment of this title or it shall be forever barred; and any action so brought shall receive a preference over all actions which themselves are not given preference by statute. No other court shall have original jurisdiction to consider any such claim by mandamus or otherwise. If any action is brought pursuant to this section the Secretary of the Treasury shall set aside an appropriate reserve in the account containing the moneys held pursuant to subsection (a) of section 402 of this title. Such reserve shall be retained pending a final determination of all issues raised in the action and recovery in any such action shall be limited to and paid out of the moneys so reserved. After a final determination of all issues raised in the action and payment of any judgment against the United States entered pursuant thereto, any balance no longer required to be held in reserve shall be disposed of in accordance with the provisions of subsection (d) of section 402 of this title. Nothing in this section shall be construed to create (1) any liability against the

United States for any action taken pursuant to section 404 of this title, (2) any liability against the United States in favor of the Government of Czechoslovakia, any agency or instrumentality thereof or any person who is an assignee or successor in interest thereto, or (3) any other liability against the United States.

SEC. 404. The Commission shall determine in accordance with applicable substantive law, including international law, the validity and amount of claims by nationals of the United States against the Government of Czechoslovakia for losses resulting from the nationalization or other taking on and after January 1, 1945, of property including any rights or interests therein owned at the time by nationals of the United States, subject, however, to the terms and conditions of an applicable claims agreement, if any, concluded between the Governments of Czechoslovakia and the United States within one year following the date of enactment of this title. In making the determination with respect to the validity and amount of claims and value of properties, rights, or interests taken, the Commission is authorized to accept the fair or proved value of the said property, right, or interest as of a time when the property or business enterprise taken, was last operated, used, managed or controlled by the national or nationals of the United States asserting the claim irrespective of whether such date is prior to the actual date of nationalization or taking by the Government of Czechoslovakia.

SEC. 405. A claim under section 404 of this title shall not be allowed unless the property upon which the claim is based was owned by a national of the United States on the date of nationalization or other taking thereof and unless the claim has been held by a national of the United States continuously thereafter until the date of filing with the Commission.

SEC. 406. (a) A claim under section 404 of this title based upon an ownership interest in any corporation, association, or other entity which is a national of the United States shall be denied.

(b) A claim under section 404 of this title, based upon a direct ownership interest in a corporation, association, or other entity for loss by reason of the nationalization or other taking of such corporation, association, or other entity, or the property thereof, shall be allowed, subject to other provisions of this title, if such corporation, association, or other entity on the date of the nationalization or other taking was not a national of the United States, without regard to the per centum of ownership vested in the claimant in any such claim.

(c) A claim under section 404 of this title, based upon an indirect ownership interest in a corporation, association, or other entity for loss by reason of the nationalization or other taking of such corporation, association, or other entity, or the property thereof, shall be allowed, subject to other provisions of this title, only if at least 25 per centum of the entire ownership interest thereof at the time of such nationalization or other taking was vested in nationals of the United States.

(d) Any award on a claim under subsection (b) or (c) of this section shall be calculated on the basis of the total loss suffered by such corporation, association, or other entity, and shall bear the same proportion to such loss as the ownership interest of the claimant bears to the entire ownership interest thereof.

SEC. 407. In determining the amount of any award by the Commission there shall be deducted all amounts the claimant has received from any source on account of the same loss or losses with respect to which such award is made.

SEC. 408. With respect to any claim under section 404 of this title which, at the time of the award, is vested in persons other than the person by whom the loss was sustained, the Commission may issue a consolidated award in favor of all claimants then entitled thereto, which award shall indicate the respective interests of such claimants therein, and all such claimants shall participate, in proportion to their indicated interests, in the payments authorized by this title in all respects as if the award had been in favor of a single person.

SEC. 409. No award shall be made on any claim under section 404 of this title to or for the benefit of (1) any person who has been convicted of a violation of any provision of chapter 115, title 18, of the United States Code, or of any other crime involving disloyalty to the United States, or (2) any claimant whose claim under this title is within the scope of title III of this Act.

SEC. 410. The Commission shall certify to the Secretary of the Treasury, in terms of United States currency, each award made pursuant to this title.

SEC. 411. Within sixty days after the enactment of this title or of legislation making appropriations to the Commission for payment of administrative expenses incurred in carrying out its functions under this title, whichever date is later, the Commission shall give public notice by publication in the Federal Register of the time when, and the limit of time within which claims may be filed, which limit shall not be more than twelve months after such publication.

SEC. 412. The Commission shall complete its affairs in connection with the settlement of claims pursuant to this title not later than three years following the final date for the filing of claims as provided in section 411 of this title or following the enactment of legislation making appropriations to the Commission for payment of administrative expenses incurred in carrying out its functions under this title, whichever date is later.

SEC. 413. (a) The Secretary of the Treasury is authorized and directed, out of the sums covered into the Czechoslovakian Claims Fund, to make payments on account of awards certified by the Commission pursuant to this title as follows and in the following order of priority:

(1) Payment in the amount of \$1,000 or in the amount of the award, whichever is less.

(2) Thereafter, payments from time to time on account of the unpaid balance of each remaining award made pursuant to this title which shall bear to such unpaid balance the same proportion as the total amount in the fund available for distribution at the time such payments are made bears to the aggregate unpaid balance of all such awards.

(b) Such payments, and applications for such payments, shall be made in accordance with such regulations as the Secretary of the Treasury shall prescribe.

(c) For the purpose of making any such payments, an "award" shall be deemed to mean the aggregate of all awards certified in favor of the same claimant.

(d) If any person to whom any payment is to be made pursuant to this title is deceased or is under a legal disability, payment shall be made to his legal representative, except that if any payment to be made is not over \$1,000 and there is no qualified executor or administrator, payment may be made to the person or persons found by the Comptroller General to be entitled thereto, without the necessity of compliance with the requirements of law with respect to the administration of estates.

(e) Subject to the provisions of any claims agreement hereafter concluded between the Governments of Czechoslovakia and the United States, payment of any award pursuant to this title shall not, unless such payment is for the full amount of the claim, as determined by the Commission to be valid, with respect to which the award is made, extinguish such claim, or be construed to have divested any claimant, or the United States on his behalf, of any rights against any foreign government for the unpaid balance of his claim.

SEC. 414. No remuneration on account of services rendered on behalf of any claimant in connection with any claim filed with the Commission under this title shall exceed 10 per centum of the total amount paid pursuant to any award certified under the provisions of this title on account of such claim. Any agreement to the contrary shall be unlawful and void. Whoever, in the United States or elsewhere, demands or receives, on account of services so rendered, any remuneration in excess of the maximum permitted by this section, shall be guilty of a misdemeanor, and, upon conviction thereof, shall be fined not more than \$5,000 or imprisoned not more than twelve months, or both.

SEC. 415. The Secretary of State is authorized and directed to transfer or otherwise make available to the Commission such records and documents relating to claims authorized by this title as may be required by the Commission in carrying out its functions under this title.

SEC. 416. To the extent they are not inconsistent with the provisions of this title, the following provisions of title I shall be applicable to this title: Subsections (b), (c), (d), (e), (h), and (j) of section 4; subsections (c), (d), (e), and (f) of section 7.

SEC. 417. There are hereby authorized to be appropriated such sums as may be necessary to enable the Commission and the Treasury Department to pay their administrative expenses incurred in carrying out their functions under this title.⁴⁶

⁴⁶ Public Law 83-285, approved August 9, 1955, consisted entirely of amendments to Public Law 81-455, approved March 10, 1950, except for sec. 4 which reads as follows:

"SEC. 4. Public Resolution Numbered 36, Seventy-Sixth Congress, approved August 4, 1939 (53 Stat. 1199), entitled 'Resolution to provide for the adjudication by a Commissioner of Claims of American nationals against the Government of the Union of Soviet Socialist Republics', is hereby repealed."

Public Law 85-604, approved August 8, 1958, consisted entirely of amendments to Public Law 81-455, approved March 10, 1950, except for the material in section 3(b) noted in footnote 32, and the following:

"SEC. 4. If any provision of this Act, or the application thereof to any person or circumstances, shall be held invalid, the remainder of the Act, or the application of such provision to other persons or circumstances shall not be affected."

TITLE V ⁴⁷

PURPOSE OF TITLE

SEC. 501.⁴⁸ It is the purpose of this title to provide for the determination of the amount and validity of claims against the Government of Cuba, or the Chinese Communist regime,⁴⁹ which have arisen since January 1, 1959, in the case of claims against the Government of Cuba, or since October 1, 1949, in the case of claims against the Chinese Communist regime,⁵⁰ out of nationalization, expropriation, intervention, or other takings of, or special measures directed against, property of nationals of the United States, and claims for disability or death of nationals of the United States arising out of violations of international law by the Government of Cuba, or the Chinese Communist regime,⁴⁹ in order to obtain information concerning the total amount of such claims against the Government of Cuba, or the Chinese Communist regime,⁴⁹ on behalf of nationals of the United States. This title shall not be construed as authorizing an appropriation or as any intention to authorize an appropriation for the purpose of paying such claims.

SEC. 502. For the purposes of this title:

(1) The term "national of the United States," means (A) a natural person who is a citizen of the United States, or (B) a corporation or other legal entity which is organized under the laws of the United States, or of any States, the District of Columbia, or the Commonwealth of Puerto Rico, if natural persons who are citizens of the United States own, directly or indirectly, 50 per centum or more of the outstanding capital stock or other beneficial interest of such corporation or entity. The term does not include aliens.

(2) The term "Commission" means the Foreign Claims Settlement Commission of the United States.

(3) The term "property" means any property, right, or interest, including any leasehold interest, and debts owed by the Government of Cuba or the Chinese Communist regime⁴⁹ or by enterprises which have been nationalized, expropriated, intervened, or taken by the Government of Cuba or the Chinese Communist regime⁴⁹ and debts which are a charge on property which has been nationalized, expropriated, intervened, or taken by the Government of Cuba or the Chinese Communist regime.⁴⁹

(4) The term "Government of Cuba" includes the government of any political subdivision, agency, or instrumentality thereof.

(5) The term "Chinese Communist regime" means the so-called

⁴⁷ Title V was added by Public Law 88-666 (78 Stat. 1110), approved October 16, 1964. Public Law 89-780 (80 Stat. 1365), approved November 6, 1966, amended Title V to provide for the determination of the amounts of claims of nationals of the United States against the Chinese Communist regime.

⁴⁸ This section was amended to Public Law 89-262, 79 Stat. 988, approved October 19, 1965: by striking out "which have arisen out of debts for merchandise furnished or services rendered by nationals of the United States without regard to the date on which such merchandise was furnished or services were rendered or".

⁴⁹ This section was amended by Public Law 89-780 (80 Stat. 1365), approved November 6, 1966, by inserting ", or the Chinese Communist regime," after "the Government of Cuba" at each place it appears in such section.

⁵⁰ This section was amended by Public Law 89-780 (80 Stat. 1365), approved November 6, 1966, by inserting "in the case of claims against the Government of Cuba, or since October 1, 1949, in the case of claims against the Chinese Communist regime," after "since January 1, 1959,".

Peoples Republic of China, including any political subdivision, agency, or instrumentality thereof.⁵¹

RECEIPT OF CLAIMS

SEC. 503. (a)⁵² The Commission shall receive and determine in accordance with applicable substantive law, including international law, the amount and validity of claims by nationals of the United States against the Government of Cuba, or the Chinese Communist regime,⁴⁹ arising since January 1, 1959, in the case of claims against the Government of Cuba, or since October 1, 1949, in the case of claims against the Chinese Communist regime,⁵⁰ for losses resulting from the nationalization, expropriation, intervention, or other taking of, or special measures directed against, property including any rights or interests therein owned wholly or partially, directly or indirectly at the time by nationals of the United States, if such claims are submitted to the Commission within such period specified by the Commission by notice published in the Federal Register (which period shall not be more than eighteen months after such publication) within sixty days after the enactment of this title or sixty days after the enactment of the amendments made thereto with respect to claims against the Chinese Communist regime,⁵³ or of legislation making appropriations to the Commission for payment of administrative expenses incurred in carrying out its functions with respect to each respective claims program authorized⁵⁴ under this title, whichever date is later. In making the determination with respect to the validity and the amount of claims and value of properties, rights, or interests taken, the Commission shall take into account the basis of valuation most appropriate to the property and equitable to the claimant, including but not limited to, (i) fair market value, (ii) book value, (iii) going concern value, or (iv) cost of replacement.

(b) The Commission shall receive and determine in accordance with applicable substantive law, including international law, the amount and validity of claims by nationals of the United States against the Government of Cuba, or the Chinese Communist regime,⁴⁹ arising since January 1, 1959, in the case of claims against the Government of Cuba, or since October 1, 1949, in the case of claims against the Chinese Communist regime,⁵⁰ for disability or death resulting from actions taken by or under the authority of the Government of Cuba, or the Chinese Communist regime,⁴⁹ if such claims are submitted to the Commission within the period established by the Commission under subsection (a), or within six months after the date the claims first arose (as determined by the Commission), whichever date last occurs.

⁵¹ This paragraph was added by sec. 2 of Public Law 89-780 (80 Stat. 1365), approved November 6, 1966.

⁵² This section was amended by sec. 2 of Public Law 89-262 (79 Stat. 988), approved October 19, 1965 by striking out "arising out of debts for merchandise furnished or services rendered by nationals of the United States without regard to the date on which such merchandise was furnished or services were rendered or".

⁵³ This section was amended by sec. 3 of Public Law 89-780 (80 Stat. 1365), approved November 6, 1966, by inserting "in the case of claims against the Government of Cuba, or since October 1, 1949, in the case of claims against the Chinese Communist regime," after "since January 1, 1959."

⁵⁴ This section was amended by sec. 3 of Public Law 89-780 (80 Stat. 1365), approved November 6, 1966, by inserting "or sixty days after the enactment of the amendments made thereto with respect to claims against the Chinese Communist regime," after "within sixty days after the enactment of this title".

OWNERSHIP OF CLAIMS

SEC. 504. (a) A claim shall not be considered under section 503(a) of this title unless the property on which the claim was based was owned wholly or partially, directly or indirectly by a national of the United States on the date of the loss and if considered shall be considered only to the extent the claim has been held by one or more nationals of the United States continuously thereafter until the date of filing with the Commission.

(b) A claim for disability under section 503(b) may be considered if it is filed by the disabled person or by his successors in interest; and a claim for death under section 503(b) may be considered if filed by the personal representative of decedent's estate or by a person or persons for pecuniary losses and damage sustained on account of such death. A claim shall not be considered under this section unless the disabled or deceased person was a national of the United States at the time of injury or death and if considered, shall be considered only to the extent the claim has been held by a national or nationals of the United States continuously until the date of filing with the Commission.

CORPORATE CLAIMS

SEC. 505. (a) A claim under section 503(a) of this title based upon an ownership interest in any corporation, association, or other entity which is a national of the United States shall not be considered. A claim under section 503(a) of this title based upon a debt or other obligation owing by any corporation, association, or other entity organized under the laws of the United States, or of any State, the District of Columbia, or the Commonwealth of Puerto Rico shall be considered, only when such debt or other obligation is a charge on property which has been nationalized, expropriated, intervened, or taken by the Government of Cuba, or the Chinese Communist regime.⁵⁵

(b) A claim under section 503(a) of this title based upon a direct ownership interest in a corporation, association, or other entity for loss shall be considered, subject to the other provisions of this title, if such corporation, association, or other entity on the date of the loss was not a national of the United States, without regard to the per centum of ownership vested in the claimant.

(c) A claim under section 503(a) of this title based upon an indirect ownership interest in a corporation, association, or other entity for loss shall be considered, subject to the other provisions of this title, only if at least 25 per centum of the entire ownership interest thereof at the time of such loss was vested in nationals of the United States.

(d) The amount of any claim covered by subsection (b) or (c) of this section shall be calculated on the basis of the total loss suffered by such corporation, association, or other entity, and shall bear the same proportion to such loss as the ownership interest of the claimant at the time of loss bears to the entire ownership interest thereof.

⁵⁵ This sentence was added by sec. 3 of Public Law 89-262 (79 Stat. 988), approved October 19, 1965. The sentence was amended by sec. 4 of Public Law 89-780 (80 Stat. 1365), approved November 6, 1966, by adding to the end thereof a comma and the following: "or the Chinese Communist regime."

OFFSETS

SEC. 506.⁵⁶ In determining the amount of any claim, the Commission shall deduct all amounts the claimant has received from any source on account of the same loss or losses.

ACTION OF COMMISSION WITH RESPECT TO CLAIMS

SEC. 507. (a) The Commission shall certify to each individual who has filed a claim under this title the amount determined by the Commission to be the loss or damage suffered by the claimant which is covered by this title. The Commission shall certify to the Secretary of State such amount and the basic information underlying that amount, together with a statement of the evidence relied upon and the reasoning employed in reaching its decision.

(b) The amount determined to be due on any claim of an assignee who acquires the same by purchase shall not exceed (or, in the case of any such acquisition subsequent to the date of the determination, shall not be deemed to have exceeded) the amount of the actual consideration paid by such assignee, or in case of successive assignments of a claim by any assignee.

TRANSFER OF RECORDS

SEC. 508. The Secretary of State shall transfer or otherwise make available to the Commission such records and documents relating to claims authorized by this title as may be required by the Commission in carrying out its functions under this title.

APPLICATION OF OTHER LAWS

SEC. 509. To the extent they are not inconsistent with the provisions of this title, the following provisions of title I of this Act shall be applicable to this title: Subsections (b), (c), (d), (e), (h), and (j) of section 4; subsection (f) of section 7.

SETTLEMENT PERIOD

SEC. 510. The Commission shall complete its affairs in connection with the settlement of claims pursuant to this title not later than July 6, 1972.⁵⁷

APPROPRIATIONS

SEC. 511.⁵⁸ There are hereby authorized to be appropriated such sums as may be necessary to enable the Commission to pay its administrative expenses incurred in carrying out its functions under this title.

⁵⁶ This section was amended by sec. 4 of Public Law 89-262 (79 Stat. 988), approved October 19, 1965, by striking out " : *Provided*, That the deduction of such amounts shall not be construed as divesting the United States of any rights against the Government of Cuba for the amounts so deducted"

⁵⁷ Section 510 was amended by Public Law 91-157 (83 Stat. 435), approved December 24, 1969.

⁵⁸ Sec. 511 (22 U.S.C. 1643j) of this Act, as added by Public Law 88-666 (78 Stat. 1113), October 16, 1964, was amended by sec. 5 of Public Law 89-262, 79 Stat. 988, approved October 19, 1965.

FEES FOR SERVICES

SEC. 512. No remuneration on account of any services rendered on behalf of any claimant in connection with any claim filed with the Commission under this title shall exceed 10 per centum of so much of the total amount of such claim, as determined under this title, as does not exceed \$20,000, plus 5 per centum of so much of such amount, if any, as exceeds \$20,000. Any agreement to the contrary shall be unlawful and void. Whoever, in the United States or elsewhere, demands or receives on account of services so rendered, any remuneration in excess of the maximum permitted by this section, shall be fined not more than \$5,000 or imprisoned not more than twelve months,

SEPARABILITY

SEC. 513. If any provision of this Act, or the application thereof to any person or circumstances, shall be held invalid, the remainder of the Act, or the application of such provision to other persons or circumstances, shall not be affected.

TITLE VI ⁵⁹

PURPOSE OF TITLE

SEC. 600. It is the purpose of this title to provide for the determination of the validity and amounts of outstanding claims against the German Democratic Republic which arose out of the nationalization, expropriation, or other taking of (or special measures directed against) property interests of nationals of the United States. This title shall not be construed as authorizing or as any intention to authorize an appropriation by the United States for the purpose of paying such claims.

DEFINITIONS

SEC. 601. As used in this title—

(1) the term "national of the United States" means—
 (a) a natural person who is a citizen of the United States;
 (b) a corporation or other legal entity which is organized under the laws of the United States or of any State, the District of Columbia, or the Commonwealth of Puerto Rico, if natural persons who are citizens of the United States own, directly or indirectly, 50 per centum or more of the outstanding capital stock or other beneficial interest of such corporation or entity. The term does not include aliens.

(2) The term "Commission" means the Foreign Claims Settlement Commission of the United States.

(3) The term "property" means any property, right, or interest, including any lease-hold interest, and debts owed by enterprises which have been nationalized, expropriated, or taken by the German Democratic Republic for which no restoration or no adequate compensation has been made to the former owners of such property.

(4) The term "German Democratic Republic" includes the govern-

⁵⁹ Title VI was added by Public Law 94-542.

ment of any political subdivision, agency, or instrumentality thereof or under its control.

(5) The term "Claims Fund" is the special fund established in the Treasury of the United States composed of such sums as may be paid to the United States by the German Democratic Republic pursuant to the terms of any agreement settling such claims that may be entered into by the Governments of the United States and the German Democratic Republic.

RECEIPT AND DETERMINATION OF CLAIMS

SEC. 602. The Commission shall receive and determine in accordance with applicable substantive law, including international law, the validity and amounts of claim by nationals of the United States against the German Democratic Republic for losses arising as a result of the nationalization, expropriation, or other taking of (or special measures directed against) property, including any rights or interests therein, owned wholly or partially, directly or indirectly, at the time by nationals of the United States whether such losses occurred in the German Democratic Republic or in East Berlin. Such claims must be submitted to the Commission within the period specified by the Commission by notice published in the Federal Register (which period shall not be more than twelve months after such publication) within sixty days after the enactment of this title or of legislation making appropriations to the Commission for payment of administrative expenses incurred in carrying out its functions under this title, whichever date is later.

OWNERSHIP OF CLAIMS

SEC. 603. A claim shall not be favorably considered under section 602 of this title unless the property right on which it is based was owned, wholly or partially, directly or indirectly, by a national of the United States on the date of loss and if favorably considered, the claim shall be considered only if it has been held by one or more nationals of the United States continuously from the date that the loss occurred until the date of filing with the Commission.

CORPORATE CLAIMS

SEC. 604. (a) A claim under section 602 of this title based upon an ownership interest in any corporation, association, or other entity which is a national of the United States, shall not be considered. A claim under section 602 of this title based upon a debt or other obligation owing by any corporation, association, or other entity organized under the laws of the United States, or of any State, the District of Columbia, or the Commonwealth of Puerto Rico shall be considered only when such debt or other obligation is a charge on property which has been nationalized, expropriated, or taken by the German Democratic Republic.

(b) A claim under section 602 of this title based upon a direct ownership interest in a corporation, association, or other entity for loss, shall be considered subject to the provisions of this title, if such

corporation, association or other entity on the date of the loss was not a national of the United States, without regard to the per centum of ownership vested in the claimant.

(c) A claim under section 602 of this title for losses based upon an indirect ownership interest in a corporation, association, or other entity, shall be considered, subject to the other provisions of this title, only if at least 25 per centum of the entire ownership interest thereof, at the time of such loss, was vested in nationals of the United States.

(d) The amount of any claim covered by subsections (b) or (c) of this section shall be calculated on the basis of the total loss suffered by such corporation, association, or other entity, and shall bear the same proportion to such loss as the ownership interest of the claimant at the time of loss bears to the entire ownership interest thereof.

OFFSETS

SEC. 605. In determining the amount of any claim, the Commission shall deduct all amounts the claimant has received from any source on account of the same loss or losses, including any amount claimant received under section 202(a) of the War Claims Act of 1948, as amended, for losses which occurred as a direct consequence of special measures directed against such property in any area covered under this title.

CONSOLIDATED AWARDS

SEC. 606. With respect to any claim under section 602 of this title which, at the time of the award, is vested in persons other than the person by whom the original loss was sustained, the Commission shall issue a consolidated award in favor of all claimants then entitled thereto, which award shall indicate the respective interests of such claimants therein, and all such claimants shall participate, in proportion to their indicated interests, in any payments that may be made under this title in all respects as if the award had been in favor of a single person.

CLAIMS FUND

SEC. 607. (a) The Secretary of the Treasury is hereby authorized to establish in the Treasury of the United States a fund to be designated the Claims Fund as defined under section 601(5) for the payment of unsatisfied claims of nationals of the United States against the German Democratic Republic as authorized in this title.

(b) The Secretary of the Treasury shall deduct from any amounts covered into the Claims Fund, an amount equal to 5 per centum thereof as reimbursement to the Government of the United States for expenses incurred by the Commission and by the Treasury Department in the administration of this title. The amounts so deducted shall be covered into the Treasury to the credit of miscellaneous receipts.

AWARD PAYMENT PROCEDURES

SEC. 608. (a) The Commission shall certify to the Secretary of the Treasury, in terms of United States currency, each award made pursuant to section 602 of this title.

(b) Upon certification of such award, the Secretary of the Treasury is authorized and directed, out of the sums covered into the Claims Fund, to make payments on account of such awards as follows, and in the following order of priority:

(1) payment in full of the principal amount of each award of \$1,000 or less;

(2) payment in the amount of \$1,000 on account of the principal amount of each award of more than \$1,000 in principal amount;

(3) thereafter, payments from time to time, in ratable proportions, on account of the unpaid balance of the principal amounts of all awards according to the proportions which the unpaid balance of such awards bear to the total amount in the fund available for distribution at the time such payments are made;

(4) after payment has been made in full of the principal amounts of all awards, pro rata payments may be made on account of any interest that may be allowed on such awards;

(5) payments or applications for payments shall be made in accordance with such regulations as the Secretary of the Treasury may prescribe.

SETTLEMENT PERIOD

SEC. 609. The Commission shall complete its affairs in connection with the settlement of claims pursuant to this title not later than three years following the final date for the filing of claims as provided in section 602 of this title.

TRANSFER OF RECORDS

SEC. 610. The Secretary of State is authorized and directed to transfer or otherwise make available to the Commission such records and documents relating to claims authorized by this title as may be required by the Commission in carrying out its functions under this title.

APPROPRIATIONS

SEC. 611. There are hereby authorized to be appropriated such sums as may be necessary to enable the Commission and the Treasury Department to pay their respective administrative expenses incurred in carrying out their functions under this title.

FEES FOR SERVICES

SEC. 612. No remuneration on account of services rendered on behalf of any claimant, in connection with any claim filed with the Commission under this title, shall exceed 10 per centum of the total amount paid pursuant to any award certified under the provisions of this title on account of such claims. Any agreement to the contrary shall be unlawful and void. Whoever, in the United States or elsewhere demands or receives, on account of services so rendered, any remuneration in excess of the maximum permitted by this section shall be guilty of a misdemeanor, and, upon conviction thereof, shall be fined not more than \$5,000 or imprisoned not more than twelve months, or both.

APPLICATION OF OTHER LAWS

SEC. 613. To the extent they are not inconsistent with the provisions of this title, the following provisions of title I of the Act shall be applicable to this title: subsections (b), (c), (d), (e), (h), and (j) of section 4; subsections (c), (d), (e), and (f) of section 7.

SEPARABILITY

SEC. 614. If any provisions of this Act or the application thereof to any person or circumstances shall be held invalid, the remainder of the Act or the application of such provision to other persons or circumstances shall not be affected.

PROTESTS

SEC. 615. Notwithstanding the provision of sections 210 and 211 of the War Claims Act of 1948 (Act of July 3, 1948), as amended by Public Law 87-846, the Foreign Claims Settlement Commission established by Reorganization Plan No. 1 of 1954 (68 Stat. 1279) is authorized and directed to receive and consider protests relating to awards made by the Commission during the ten calendar days immediately preceding the expiration of the Commission's mandate to make such awards on May 17, 1967. Any such protests must be filed within ninety days after notice of the enactment of this provision is filed with and published in the Federal Register, which shall take place within thirty days of enactment. Such protests may include the submission of new evidence not previously before the Commission, and shall be acted upon within thirty days after receipt by the Commission. The Commission may modify awards made during the subject period in accordance with the procedures established by the War Claims Act of 1948, and any increases in awards determined to be appropriated by the Commission shall be certified to and paid by the Secretary of the Treasury out of funds which are now or may hereafter become available in the War Claims Fund in accordance with section 213 of the Act.

b. Foreign Claims Settlement Commission Appropriations, 1978

Partial text of Public Law 95-86 [Departments of State, Justice, and Commerce, the Judiciary, and related agencies for the fiscal year ending September 30, 1978; H.R. 7556], 91 Stat. 419 at 438, approved August 2, 1977.

AN ACT Making appropriations for the Departments of State, Justice, and Commerce, the Judiciary, and related agencies for the fiscal year ending September 30, 1978, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the Departments of State, Justice, and Commerce, the Judiciary, and related agencies for the fiscal year ending September 30, 1978, and for other purposes, namely:

* * * * *

FOREIGN CLAIMS SETTLEMENT COMMISSION

SALARIES AND EXPENSES

For expenses necessary to carry on the activities of the Foreign Claims Settlement Commission, including services as authorized by 5 U.S.C. 3109; allowances and benefits similar to those provided by title IX of the Foreign Service Act of 1946, as amended, as determined by the Commission; expenses of packing, shipping, and storing personal effects of personnel assigned abroad; rental or lease, for such periods as may be necessary, of office space and living quarters for personnel assigned abroad; maintenance, improvement, and repair of properties rented or leased abroad, and furnishing fuel, water, and utilities for such properties; insurance on official motor vehicles abroad; advances of funds abroad; advances or reimbursements to other Government agencies for use of their facilities and services in carrying out the functions of the Commission; hire of motor vehicles for field use only; and employment of aliens; \$920,000.

* * * * *

c. Ryukyu Claims Settlement Act

Public Law 89-296 [S.J. Res. 32], 79 Stat. 1071, approved October 27, 1965

JOINT RESOLUTION To authorize a contribution to certain inhabitants of the Ryukyu Islands for death and injury to persons and for use of and damage to private property, arising from acts and omissions of the United States Armed Forces, or members thereof, after August 15, 1945, and before April 28, 1952.

Whereas certain persons of the Ryukyu Islands suffered damages incident to the activities of the Armed Forces of the United States, or members thereof, after the surrender of Japanese forces in the Ryukyus on August 15, 1945, and before the effective date of the Treaty of Peace with Japan on April 28, 1952;

Whereas article 19 of the Treaty of Peace with Japan extinguished the legal liability of the United States for any claims of Japanese nationals, including Ryukyuans, with the result that the United States has made no compensation for the above-mentioned damages (except for use of and damage to land during the period from July 1, 1950, to April 28, 1952);

Whereas it is particularly consonant with the concern of the United States, as the sole administering authority in the Ryukyu Islands, for the welfare of the Ryukyuan people, that those Ryukyuans who suffered damages incident to the activities of the United States Armed Forces, or members thereof, should be compensated therefor;

Whereas payment of ex gratia compensation, by advancing the welfare of the Ryukyuan people, will promote the security interest, foreign policy, and foreign relations of the United States; and

Whereas the High Commissioner of the Ryukyu Islands has considered the evidence regarding these claims, and has determined, in an equitable manner, those claims which are meritorious, and the amounts thereof: Therefore be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the United States should make an ex gratia contribution to the persons (excluding municipalities) determined by the High Commissioner of the Ryukyu Islands to be meritorious claimants, in the amounts determined by him, and that the Secretary of the Army or his designee should, under regulations prescribed by the Secretary of Defense, pay such amounts to the claimants or their legal heirs, as a civil function of the Department of the Army; and be it further

Resolved, That no funds appropriated under this joint resolution shall be disbursed to satisfy claims, or portions thereof, which have been satisfied by contributions made by the Government of Japan.

SEC. 2. There is authorized to be appropriated not to exceed \$22,000,000¹ to carry out the provisions of this joint resolution, which

¹ Public Law 89-691 (80 Stat. 1018), approved October 15, 1966, appropriated the amount "\$21,040,000."

funds are authorized to remain available for two years from the effective date of their appropriation. Any funds unobligated by the end of that period shall be covered into the Treasury of the United States.

SEC. 3. No remuneration on account of services rendered on behalf of any claimant in connection with any claim shall exceed 5 per centum of the total amount paid, pursuant to the provisions of this joint resolution, on such claim; except that no remuneration on account of such services rendered on behalf of any association of claimants by any agent or attorney (including organizations thereof) shall exceed 1 per centum of the aggregate amount so paid on the claims involved. Fees already paid for such services shall be deducted from the amounts authorized under this joint resolution. Any agreement to the contrary shall be unlawful and void. Whoever, in the United States or elsewhere, demands or receives, on account of services so rendered, any remuneration in excess of the maximum permitted by this section, shall be guilty of a misdemeanor, and, upon conviction thereof, shall be fined not more than \$5,000 or imprisoned not more than twelve months, or both.

d. Micronesian Claims Act of 1971, as amended

Public Law 92-39 [H.J. Res. 617], 85 Stat. 92, approved July 1, 1971, as amended by Public Law 93-131 [H.R. 6628], 87 Stat. 460, approved October 19, 1973

JOINT RESOLUTION To authorize an *ex gratia* contribution to certain inhabitants of the Trust Territory of the Pacific Islands who suffered damages arising out of the hostilities of the Second World War, to provide for the payment of noncombat claims occurring prior to July 1, 1951, and to establish a Micronesian Claims Commission.

Whereas certain Micronesian inhabitants of the Trust Territory of the Pacific Islands, formerly under League of Nations mandate to Japan, suffered from the hostilities of the Second World War; and Whereas the United States, while not liable for wartime damages suffered by the Micronesians, has responsibility for the welfare of the Micronesian people as the administering authority of the Trust Territory of the Pacific Islands; and

Whereas the Governments of Japan and the United States entered into an agreement on April 18, 1969, to contribute *ex gratia* the equivalent of \$10,000,000 to the Micronesian inhabitants of the Trust Territory of the Pacific Islands in view of the suffering caused by the hostilities of the Second World War, each Government contributing the equivalent of \$5,000,000, Japan's contribution to take the form of products and services; and

Whereas payment of these *ex gratia* contributions to certain Micronesian inhabitants of the Trust Territory of the Pacific Islands will meet a longstanding Micronesian grievance and will promote the welfare of the Micronesian people; and

Whereas certain Micronesian inhabitants of the Trust Territory of the Pacific Islands claim to have suffered damage to or loss or destruction of property, personal injury, or death caused by military and civilian employees of the United States Government and arising out of accidents or incidents between the dates of the securing of the various islands of Micronesia by the United States Armed Forces and July 1, 1951, and within an area under the control of the United States at the time of the accident or incident; and

Whereas the United States is desirous of making an equitable settlement of these claims by way of a monetary contribution: Therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That this resolution may be cited as the "Micronesian Claims Act of 1971".

TITLE I

SEC. 101. (a) It is the purpose of this title that, with respect to war claims, the United States should make an *ex gratia* contribution of \$5,000,000 matching an equivalent contribution of the Government of

Japan, to Micronesian inhabitants of the Trust Territory of the Pacific Islands who are determined by the Micronesian Claims Commission to be meritorious claimants, in particular amounts to be awarded by the Micronesian Claims Commission, and that the Secretary of the Interior, hereinafter referred to as the "Secretary", or his designee, shall pay to said Micronesian claimants as soon as possible following his receipt of the final report of the Micronesian Claims Commission on the claims allowed, such amounts as are finally certified pursuant to section 104 of this title.

(b)¹ A "Micronesian inhabitant of the Trust Territory of the Pacific Islands" is defined for the purposes of this Act as a person who—

(1) became a citizen of the Trust Territory of the Pacific Islands on July 18, 1947, and who remains a citizen of the Trust Territory of the Pacific Islands, or is a citizen of the United States, as of the date of filing a claim; or

(2) if then living, would have been eligible to become a citizen of the Trust Territory of the Pacific Islands on July 18, 1947; or

(3) is the successor, heir, or assignee of a person eligible under paragraph (1) or (2) and who is a citizen of the Trust Territory of the Pacific Islands, or of the United States, as of the date of filing a claim.

SEC. 102. (a) There is hereby authorized to be appropriated to the Trust Territory of the Pacific Islands \$5,000,000, in addition to the normal budgetary expenditures for the Trust Territory of the Pacific Islands and in addition to the appropriations authorized by section 2 of the Act of June 30, 1954, as amended, to be paid into a "Micronesian Claims Fund". The Secretary is hereby authorized to create and manage said Micronesian Claims Fund.

(b) Funds approximating \$5,000,000 appropriated to the Trust Territory of the Pacific Islands for supplies or capital improvements in accordance with the Act of June 30, 1954, as amended, shall be paid into a Micronesian Claims Fund as the products of Japan and the services of the Japanese people in the amount of one billion eight hundred million yen (currently computed at \$5,000,000) are provided by Japan pursuant to article I of the "Agreement between the United States of America and Japan", signed April 18, 1969. These funds, together with the sum authorized to be appropriated by subsection (a) of this section, shall constitute the whole of the Micronesian Claims Fund.

SEC. 103. (a) There is hereby established a Micronesian Claims Commission, hereinafter referred to as the "Commission", such Commission to be under the control and direction of the Chairman of the Foreign Claims Settlement Commission. The Commission shall be composed of five members, who shall be appointed, in consultation with the Secretary, by the Chairman of the Foreign Claims Settlement Commission, one of whom he shall designate as Chairman. Two members shall be selected from a list of Micronesian citizens nomi-

¹ As amended by sec. 1 of Public Law 93-131 (87 Stat. 460). The text formerly read:

"(b) A 'Micronesian inhabitant of the Trust Territory of the Pacific Islands' is defined for the purposes of this joint resolution as a person who:

"(1) became a citizen of the Trust Territory of the Pacific Islands on July 18, 1947, and who remains a citizen as of the date of filing a claim; or

"(2) if then living, would have been eligible for citizenship on July 18, 1947; or

"(3) is the successor, heir, or assignee of a person eligible under paragraph (1) or (2) and who is a citizen of the Trust Territory of the Pacific Islands as of the date of filing a claim."

nated by the congress of Micronesia. Any vacancy that may occur in the membership of the Commission shall be filled in the same manner as in the case of the original appointment. The members of the Commission shall serve at the pleasure of the Chairman of the Foreign Claims Settlement Commission. No Commissioner shall hold other public office or engage in any other employment during the period of his service on the Commission, except as an employee of the Foreign Claims Settlement Commission.

(b) The members of the Commission shall receive compensation and allowances as determined by the Chairman of the Foreign Claims Settlement Commission by application of the rules and regulations which apply to officers and employees of the Trust Territory of the Pacific Islands, but in no event shall traveling and other expenses incurred in connection with their duties as members, or a per diem allowance in lieu thereof, exceed that prescribed in accordance with the provisions of subchapter 1 of chapter 57 of title 5, United States Code. The term of office of the members of the Commission shall expire at the time fixed in subsection (e) of this section for winding up the affairs of the Commission.

(c) The Commission may, subject to the approval of the Chairman of the Foreign Claims Settlement Commission, appoint and fix the compensation and allowances of such officers, attorneys, and employees of the Commission as may be reasonably necessary for its proper functioning, which employees shall be in addition to those who may be assigned by the Chairman of the Foreign Claims Settlement Commission to assist the Commission in carrying out its functions. The compensation and allowances of employees appointed pursuant to this section shall be within the rules and regulations which apply to officers and employees of the Trust Territory of the Pacific Islands, but in no event to exceed the amount of allowances prescribed in subchapter 1 of chapter 57 of title 5, United States Code. In addition, the Commission, with the approval of the Chairman of the Foreign Claims Settlement Commission, may make such expenditures as may be reasonably necessary to carry out its proper functioning. Officers and employees of any other department or agency of the Government of the United States or the government of the Trust Territory of the Pacific Islands may, with the consent of the head of such department or agency, with or without reimbursement, be assigned to assist the Commission in carrying out its functions. The Commission may, with the consent of the head of any other department or agency of the Government of the United States or the government of the Trust Territory of the Pacific Islands, utilize, with or without reimbursement, the facilities and services of such department or agency in carrying out the functions of the Commission.

(d) The Commission shall, subject to the approval of the Chairman of the Foreign Claims Settlement Commission, prescribe such rules and regulations as are necessary for carrying out its functions. As expeditiously as possible and, in any event, within three months of its appointment, the Commission shall give public notice in the Trust Territory of the Pacific Islands of the time when, and the limit of time within which, claims may be filed, which notice shall be given in such manner as the Commission shall prescribe: *Provided*, That

the final date for the filing of claims shall not be more than one year after the appointment of the full membership of the Commission. The Commission shall give extensive publicity in the Trust Territory of the Pacific Islands to the provisions of this Act and shall make every effort to advise promptly all persons who may be entitled to file claims under the provisions of this Act administered by the Commission of their rights under such provisions, and to assist them in the preparation and filing of their claims. A majority of the membership of the Commission shall be necessary to transact business: *Provided, however,* That an affirmative vote of at least three members shall be required for the promulgation of rules and regulations, and for the final adjudication of any claim.

(e) The Commission shall wind up its affairs as expeditiously as possible and in any event not later than three years after the expiration of the time for filing claims under this Act.

SEC. 104. (a) The Commission shall have authority to receive, examine, adjudicate, and render final decisions, in accordance with the laws of the Trust Territory of the Pacific Islands and international law, with respect to (1) claims of the Micronesian inhabitants of the Trust Territory of the Pacific Islands who suffered loss of life, physical injury, and property damage directly resulting from the hostilities between the Governments of Japan and the United States between December 7, 1941, and the dates of the securing of the various islands of Micronesia by United States Armed Forces, and (2) those claims arising as postwar claims between the dates of the securing of the various islands of Micronesia by United States Armed Forces and July 1, 1951. The Commission shall notify all claimants of the approval or denial of their claims, and, if approved, shall notify such claimants of the amount for which such claims are approved. Any claimant whose claim is denied, or is approved for less than the full amount of such claim shall be entitled, under such regulations as the Commission may prescribe, to a hearing before the Commission or its representatives, with respect to such claim. Upon such hearing, the Commission may affirm, modify, or revise its former action with respect to such claim, including a denial or reduction in the amount theretofore allowed with respect to such claim. As claims are adjudicated, the Commissioner shall certify them to the Secretary for payment in such manner as he may direct.² The claims covered by title I of this Act shall be paid from the Micronesian Claims Fund except that, as to claims based on death, up to \$1,000 shall be paid immediately upon adjudication, and the claims covered by title II of this Act shall be paid by the Secretary from the funds appropriated for such purpose.

(b) No later than six months after its organization, and annually thereafter, the Commission shall make a report, through the Chairman of the Foreign Claims Settlement Commission, to the Congress of the United States concerning its operations under this Act. The Commission shall, upon winding up its work, certify to the Chairman of the Foreign Claims Settlement Commission, the Secretary, and to the Congress of the United States the following:

² Sentence as amended by sec. 2 of Public Law 93-131. This sentence formerly read: "When all claims have been adjudicated, the Commission shall certify them to the Secretary for payment".

(1) A list of all claims allowed, in whole or in part, together with the amount of each claim and, the amount awarded thereon.

(2) A list of all claims disallowed.

(3) A copy of the decision rendered in each case.

(c) In the event that funds remain in the Micronesian Claims Fund after all allowable and adjudicated claims are paid, such remaining funds shall be transferred from the Micronesian Claims Fund to the Treasury of the Trust Territory of the Pacific Islands for appropriation by the Congress of Micronesia for the welfare of the people of the Trust Territory of the Pacific Islands. In the event that the allowable and adjudicated claims covered by title I of the Act exceed a total of \$10,000,000, the Secretary shall make pro rata payments.

(d) No payment shall be made on an award of the Commission unless the claimant shall first execute a full release to the United States and Japan in respect to any alleged liability of the United States or Japan, or both, arising before the date of the securing of the various islands of Micronesia by the United States Armed Forces.

SEC. 105. There is authorized to be appropriated such sums as may be necessary for the operation and administrative expenses of the Foreign Claims Settlement Commission, to the extent needed to cover activity connected with this Act, and of the Commission in order to carry out the purposes of this Act.

SEC. 106. The agreement for the payment of the Micronesian claims covered by title I of this Act having been reached by negotiators of the Governments of the United States and Japan, and since personnel to be appointed by the Secretary or the Commission will be available to assist the people of the Trust Territory of the Pacific Islands insofar as may be necessary in filing all claims covered by either title I or title II of this Act, no remuneration on account of services rendered on behalf of any claimant, or any association of claimants, in connection with any claim or claims covered by either title I or title II shall exceed, in total, 1 per centum of the amount paid on such claim or claims, pursuant to the provisions of this Act. Fees already paid for such services shall be deducted from the amount authorized by this Act. Any agreement to the contrary shall be unlawful and void. Whoever, in the United States or elsewhere, demands or receives, on account of services so rendered, any remuneration in excess of the maximum permitted by this section, shall be guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than \$5,000 or imprisoned not more than twelve months, or both.

TITLE II

SEC. 201. For the purpose of promoting and maintaining friendly relations by the final settlement of meritorious postwar claims, the Micronesian Claims Commission is, pursuant to authority granted in section 104(a) of title I, authorized to consider, ascertain, adjust, determine, and make payments, where accepted by the claimant in full satisfaction and in final settlement, of all claims by Micronesian inhabitants against the United States or the government of the Trust Territory of the Pacific Islands on account of personal injury or death or damage to or loss or destruction of private property, both real and personal, of Micronesian inhabitants of the former Japanese man-

dated islands, now the Trust Territory of the Pacific Islands administered by the United States under a trusteeship agreement with the United Nations, including claims for a taking or for use or retention of such property where no payments or inadequate payments have been made for such taking, use, or retention when such damage, loss, or destruction was caused by the United States Army, Navy, Marine Corps, or Coast Guard, or individual members thereof, including military personnel and United States Government civilian employees, and including employees of the Trust Territory government acting within the scope of their employment: *Provided*, That only those claims shall be considered by the Commission which are presented in writing as provided for in section 103(d) of title I of this Act and the accident or incident out of which the claim arose occurred prior to July 1, 1951, within the islands which now comprise the Trust Territory of the Pacific Islands and within an area under the control of the United States at the time of the accident or incident: *Provided further*, That any such settlements made by such Commission and any such payments made by the Secretary under the authority of title I or title II shall be final and conclusive for all purposes, notwithstanding any other provision of law to the contrary and not subject to review.

SEC. 202. There is hereby authorized to be appropriated the amount of \$20,000,000, in addition to the normal budgetary expenditures for the Trust Territory of the Pacific Islands and in addition to the appropriation authorized by section 2 of the Act of June 30, 1954, as amended, to be expended by the Secretary for the purposes of making payments to the extent authorized by this title of this Act.

SEC. 203. Any funds appropriated for the purposes of this title which remain after the settlement of claims under the provisions of this title shall be covered into the Treasury of the United States.

(1) Civil Government for the Trust Territory of the Pacific Islands

Public Law 83-451 [S. 3318], 68 Stat. 330, approved June 30, 1954, as amended by Public Law 87-541 [S. 2775], 76 Stat. 171, approved July 19, 1962; Public Law 88-487 [H.R. 3198], 78 Stat. 601, approved August 22, 1964; Public Law 90-16 [S. 303], 81 Stat. 15, approved May 10, 1967; Public Law 90-617 [S. 3207], 82 Stat. 1213, approved October 21, 1968; Public Law 91-578 [S. 3479], 84 Stat. 1559, approved December 24, 1970; Public Law 91-606 [S. 3619], 84 Stat. 1744, approved December 31, 1970; and by Public Law 93-111 [S. 1385], 87 Stat. 354, approved September 21, 1973

AN ACT To provide for a continuance of civil government for the Trust Territory of the Pacific Islands.

Whereas, pursuant to the authority of Public Law 204, Eightieth Congress, approved July 18, 1947, the President approved a trusteeship agreement for the Trust Territory of the Pacific Islands between the United States Government and the Security Council of the United Nations; and

Whereas responsibility for civil administration of the Trust Territory was vested in the Secretary of the Navy by Executive Order Numbered 9875 of July 18, 1947; and

Whereas responsibility for such administration was transferred to the Secretary of the Interior, effective July 1, 1951, by Executive Order Numbered 10265 of June 29, 1951, as amended by Executive Order Numbered 10408 of November 10, 1952, and Executive Order Numbered 10470 of July 17, 1953: Therefore

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, (a) That until Congress shall further provide for the government of the Trust Territory of the Pacific Islands, all executive, legislative, and judicial authority necessary for the civil administration of the Trust Territory shall continue to be vested in such person or persons and shall be exercised in such manner and through such agency or agencies as the President of the United States may direct or authorize.

(b)¹ The head of any department, corporation, or other agency of the executive branch of the Government may, upon the request of the Secretary of the Interior, extend to the Trust Territory of the Pacific Islands, with or without reimbursement, scientific, technical, and other assistance under any program administered by such agency, or extend to the Trust Territory any Federal program administered by such agency, if the assistance or program will promote the welfare of the Trust Territory, notwithstanding any provision of law under which the Trust Territory may otherwise be ineligible for the assistance or program: *Provided*, That the Secretary of the Interior shall not re-

¹ Added by section 1 of Public Law 88-487 (78 Stat. 601).

quest assistance pursuant to this subsection that involves, in the aggregate, an estimated nonreimbursable cost in any one fiscal year in excess of \$150,000: *Provided further*, That the cost of any program extended to the Trust Territory under this subsection shall be reimbursable out of appropriations authorized and made for the government of the Trust Territory pursuant to section 2 of this Act, as amended. The provisions of this subsection shall not apply to financial assistance under a grant-in-aid program.

SEC. 2.² There are authorized to be appropriated not to exceed \$25,000,000 for fiscal year 1967 and for each of the fiscal years 1974 and 1975, \$60,000,000 plus such sums as are necessary, but not to exceed \$10,000,000, for each of such fiscal years, to offset reductions in, or the termination of, Federal grant-in-aid programs or other funds made available to the Trust Territory of the Pacific Islands by other Federal agencies, to remain available until expended, to carry out the provisions of this Act and to provide for a program of necessary capital improvements and public works related to health, education, utilities, highways, transportation facilities, communications, and public buildings: *Provided*, That except for funds appropriated for the activities of the Peace Corps no funds appropriated by any Act shall be used for administration of the Trust Territory of the Pacific Islands except as may be specifically authorized by law.

SEC. 3.³ There are hereby authorized to be appropriated such sums as the Secretary of the Interior may find necessary, but not to exceed \$10,000,000 for any one year, to alleviate suffering and damage resulting from major disasters that occur in the Trust Territory of the Pacific Islands. Such sums shall be in addition to those authorized in section 2 of this Act and shall not be subject to the limitations imposed by section 2 of this Act. The Secretary of the Interior shall determine whether or not a major disaster has occurred in accordance with the principles and policies of section 102(1) of the Disaster Relief Act of 1970.

SEC. 4.⁴ (a) The government comptroller for Guam appointed pursuant to the provisions of section 9-A of the Organic Act of Guam shall, in addition to the duties imposed on him by such Act, carry out, on and after the date of the enactment of this section, the duties set forth in this section with respect to the government of the Trust Territory of the Pacific Islands. In carrying out such duties, the comptroller shall be under the general supervision of the Secretary of the Interior and shall not be a part of any executive department in the government of the Trust Territory of the Pacific Islands. The salary and expenses of the comptroller's office shall, notwithstanding the provisions of subsection (a) of section 9-A of the Organic Act of Guam, be apportioned equitably by the Secretary of the Interior between Guam and the Trust Territory of the Pacific Islands from funds available to Guam and the trust territory.

² The phrase beginning with "and for each of the fiscal years . . ." was added by sec. 1 of Public Law 93-111 (87 Stat. 354). Public Law 91-573 (84 Stat. 1559) and Public Law 90-617 (82 Stat. 1213) had previously amended the section for fiscal years 1969-1973. Amended and restated by section 1 of Public Law 90-16 (81 Stat. 15), approved May 10, 1967.

³ Added by sec. 2 of Public Law 90-617 (82 Stat. 1213). Section 301(k) of Public Law 91-606 (84 Stat. 1759), inserted the phrase "section 102(1) of the Disaster Relief Act of 1970" for the phrase "section 2 of the Act of September 30, 1950 (64 Stat. 1109)", as amended (42 U.S.C. 1855a).

⁴ Added by section 2 of Public Law 93-111 (87 Stat. 354).

(b) The government comptroller shall audit all accounts and review and recommend adjudication of claims pertaining to the revenue and receipts of the government of the Trust Territory of the Pacific Islands and of funds derived from bond issues; and he shall audit, in accordance with law and administrative regulations, all expenditures of funds and property pertaining to the government of the Trust Territory of the Pacific Islands including those pertaining to trust funds held by such government.

(c) It shall be the duty of the government comptroller to bring to the attention of the Secretary of the Interior and the High Commissioner of the Trust Territory of the Pacific Islands all failures to collect amounts due the government, and the expenditures of funds or uses of property which are irregular or not pursuant to law. The audit activities of the government comptroller shall be directed so as to (1) improve the efficiency and economy of programs of the government of the Trust Territory of the Pacific Islands, and (2) discharge the responsibility incumbent upon the Congress to insure that the substantial Federal revenues which are covered into the treasury of such government are properly accounted for and audited.

(d) The decisions of the government comptroller shall be final except that appeal therefrom may, with the concurrence of the High Commissioner, be taken by the party aggrieved or the head of the department concerned, within one year from the date of the decision, to the Secretary of the Interior, which appeal shall be in writing and shall specifically set forth the particular action of the government comptroller to which exception is taken, with the reasons and the authorities relied upon for reversing such decision.

(e) If the High Commissioner does not concur in the taking of an appeal to the Secretary, the party aggrieved may seek relief by suit in the District Court of Guam, if the claim is otherwise within its jurisdiction. No later than thirty days following the date of the decision of the Secretary of the Interior, the party aggrieved or the High Commissioner, on behalf of the head of the department concerned, may seek relief by suit in the District Court of Guam, if the claim is otherwise within its jurisdiction.

(f) The government comptroller is authorized to communicate directly with any person or with any department officer or person having official relation with his office. He may summon witnesses and administer oaths.

(g) As soon after the close of each fiscal year as the accounts of said fiscal year may be examined and adjusted, the government comptroller shall submit to the High Commissioner and the Secretary of the Interior an annual report of the fiscal condition of the government, showing the receipts and disbursements of the various departments and agencies of the government. The Secretary of the Interior shall submit such report along with his comments and recommendations to the President of the Senate and the Speaker of the House of Representatives.

(h) The government comptroller shall make such other reports as may be required by the High Commissioner, the Comptroller General of the United States, or the Secretary of the Interior.

(i) The office and activities of the government comptroller pursuant to this section shall be subject to review by the Comptroller

General of the United States, and reports thereon shall be made by him to the High Commissioner, the Secretary of the Interior, the President of the Senate and the Speaker of the House of Representatives.

(j) All departments, agencies, and establishments shall furnish to the government comptroller such information regarding the powers, duties, activities, organization, financial transactions, and methods of business of their respective offices as he may from time to time require of them; and the government comptroller, or any of his assistants or employees, when duly authorized by him, shall, for the purpose of securing such information, have access to and the right to examine any books, documents, papers, or records of any such department, agency, or establishment.

(2) Trust Territory Economic Development Loan Fund

Public Law 92-257 [S. 860], 86 Stat. 87; 48 U.S.C. 1688-1692, approved
March 21, 1972

AN ACT Relating to the Trust Territory of the Pacific Islands

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. For the purpose of promoting economic development in the Trust Territory of the Pacific Islands, there is authorized to be appropriated to the Secretary of the Interior, for payment to the government of the Trust Territory of the Pacific Islands as a grant in accordance with the provisions of this title, an amount which when added to the development fund established pursuant to section 3 of the Act of August 22, 1964 (78 Stat. 601), as augmented by subsequent Federal grants, will create a total fund of \$5,000,000, which shall thereafter be known as the Trust Territory Economic Development Loan Fund.

SEC. 2. The grant authorized by section 1 shall be made only after the government of the Trust Territory of the Pacific Islands has submitted to the Secretary of the Interior a plan for the use of the grant, and the plan has been approved by the Secretary. The plan shall provide among other things for a revolving fund to make loans or to guarantee loans to private enterprise. The term of any loan made pursuant to the plan shall not exceed twenty-five years.

SEC. 3. No loan or loan guarantee shall be made under this title to any applicant who does not satisfy the territorial administering agency that financing is otherwise unavailable on reasonable terms and conditions. No loan or loan guarantee shall exceed (1) the amount which can reasonably be expected to be repaid, (2) the minimum amount necessary to accomplish the purposes of this title, or 25 per centum of the funds appropriated pursuant to section 1. No loan guarantee shall guarantee more than 90 per centum of the outstanding amount of any loan, and the reserves maintained to guarantee the loan shall not be less than 25 per centum of the guarantee.

SEC. 4. The plan provided for in section 2 shall set forth such fiscal control and accounting procedures as may be necessary to assure proper disbursement, repayment, and accounting for such funds.

SEC. 5. The High Commissioner of the Trust Territory of the Pacific Islands shall make an annual report to the Secretary of the Interior on the administration of this title.

SEC. 6. The Comptroller General of the United States, or any of his duly authorized representatives, shall have access, for the purpose of audit and examination, to any relevant books, documents, papers, or records of the government of the Trust Territory of the Pacific Islands.

4. Registration of Foreign Agents

a. The Foreign Agents Registration Act of 1938, as amended ¹

PART I—REGISTRATION OF FOREIGN PROPAGANDISTS

Public Law 75-583 [H.R. 1591], 52 Stat. 631; 22 U.S.C. 611-621, approved June 8, 1938, as amended by Public Law 76-319 [H.R. 5988], 53 Stat. 1244, approved August 7, 1939; Public Law 77-532 [S. 2399], 56 Stat. 248, approved April 29, 1942; Public Law 81-642 [H.R. 4386], 64 Stat. 399, approved August 3, 1950; Public Law 82-414 [H.R. 5678], 66 Stat. 163 at 276, approved June 27, 1952; Public Law 87-366 [H.R. 470], 75 Stat. 784, approved October 4 1961; Public Law 89-486 [S. 693], 80 Stat. 244, approved July 4, 1966; and by Public Law 91-375 [H.R. 17070], 84 Stat. 719 at 782, approved August 12, 1970

AN ACT To require the registration of certain persons employed by agencies to disseminate propaganda in the United States and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled. That it is hereby declared to be the policy and purpose of this Act to protect the national defense, internal security, and foreign relations of the United States by requiring public disclosure by persons engaging in propaganda activities and other activities for or on behalf of foreign governments, foreign political parties, and other foreign principals so that the government and the people of the United States may be informed of the identity of such persons and may appraise their statements and actions in light of their associations and activities.²

Section 1. Definitions.³—As used in and for the purposes of this Act—

(a) The term “person” includes an individual, partnership, association, corporation, organization, or any other combination of individuals;

(b) ⁴ The term “foreign principal” includes—

(1) a government of a foreign country and a foreign political party;

(2) a person outside of the United States, unless it is established that such person is an individual and a citizen of and domiciled within the United States, or that such person is not an individual and is organized under or created by the laws of the United States or of any State or other place subject to the jurisdiction of the United States and has its principal place of business within the United States; and

(3) a partnership, association, corporation, organization or other combination of persons organized under the laws of or having its principal place of business in a foreign country.

¹ 22 U.S.C. 611-621. The Foreign Agents Registration Act of 1938, as amended, will be referred to as the FAR Act and “this Act” in footnotes.

² Declaration of policy and purpose added by the Act of April 29, 1942 (56 Stat. 248).

³ The Act of August 7, 1939 (53 Stat. 1244); the Act of January 24, 1942 (56 Stat. 248), and the Act of July 4, 1966 (80 Stat. 244), generally redefined the terms of the Act.

⁴ This term was reduced by Public Law 89-486 (80 Stat. 244).

(c) ⁵ Except as provided in subsection (d) hereof, the term "agent of a foreign principal" means—

(1) any person who acts as an agent, representative, employee, or servant, or any person who acts in any other capacity at the order, request, or under the direction or control, of a foreign principal or of a person any of whose activities are directly or indirectly supervised, directed, controlled, financed, or subsidized in whole or in major part by a foreign principal, and who directly or through any other person—

(i) engages with the United States in political activities for or in the interests of such foreign principal;

(ii) acts within the United States as a public relations counsel, publicity agent, information-service employee or political consultant for or in the interests of such foreign principal;

(iii) within the United States solicits, collects, disburses, or dispenses contributions, loans, money, or other things of value for or in the interest of such foreign principal; or

(iv) within the United States represents the interests of such foreign principal before any agency or official of the Government of the United States; and

(2) any person who agrees, consents, assumes or purports to act as, or who is or holds himself out to be, whether or not pursuant to contractual relationship, an agent of a foreign principal as defined in clause (1) of this subsection.

(d) ⁶ The term "agent of a foreign principal" does not include any news or press service or association organized under the laws of the United States or of any State or other place subject to the jurisdiction of the United States, or any newspaper, magazine, periodical, or other publication for which there is on file with the United States Postal Service information in compliance with section 3611 of title 39 published in the United States, solely by virtue of any bona fide news or journalistic activities, including the solicitation or acceptance of advertisements, subscriptions, or other compensation therefor, so long as it is at least 80 per centum beneficially owned by, and its officers and directors, if any, are citizens of the United States, and such news or press service or association, newspaper, magazine, periodical, or other publication, is not owned, directed, supervised, controlled, subsidized, or financed, and none of its policies are determined by any foreign principal defined in section 1(b) hereof, or by any agent of a foreign principal required to register under this Act;

(e) ⁷ The term "government of a foreign country" includes any person or group of persons exercising sovereign *de facto* or *de jure* political jurisdiction over any country, other than the United States, or over any part of such country, and includes any subdivision of any such group and any group or agency to which such sovereign *de facto* or *de jure* authority or functions are directly or indirectly delegated. Such

⁵As amended and restated by Public Law 89-486 (80 Stat. 244), with former sections (c) (3) and (c) (4) deleted. Former section (c) (5) inserted by the Act of September 23, 1950 (64 Stat. 1005), was deleted by the Act of August 1, 1956 (70 Stat. 899), and is now covered by 50 U.S.C. 851-858 (1964).

⁶Added by the Act of April 29, 1942 (56 Stat. 248), and as amended by Public Law 89-486 (80 Stat. 244).

⁷Added by the Act of April 29, 1942 (56 Stat. 248).

term shall include any faction or body of insurgents within a country assuming to exercise governmental authority whether such faction or body of insurgents has or has not been recognized by the United States;

(f)⁷ The term "foreign political party" includes any organization or any other combination of individuals in a country other than the United States, or any unit or branch thereof, having for an aim or purpose, or which is engaged in any activity devoted in whole or in part to, the establishment, administration, control, or acquisition of administration or control, of a government of a foreign country or a subdivision thereof, or the furtherance or influencing of the political or public interests, policies, or relations of a government of a foreign country or a subdivision thereof;

(g)⁶ The term "public-relations counsel" includes any person who engages directly or indirectly in informing, advising, or in any way representing a principal in any public relations matter pertaining to political or public interests, policies, or relations of such principal;¹⁰

(h)⁷ The term "publicity agent" includes any person who engages directly or indirectly in the publication or dissemination of oral, visual, graphic, written, or pictorial information or matter of any kind, including publication by means of advertising, books, periodicals, newspapers, lectures, broadcasts, motion pictures, or otherwise;

(i)⁷ The term "information-service employee" includes any person who is engaged in furnishing, disseminating, or publishing accounts, descriptions, information, or data with respect to the political, industrial, employment, economic, social, cultural, or other benefits, advantages, facts, or conditions of any country other than the United States or of any government of a foreign country or of a foreign political party or of a partnership, association, corporation, organization, or other combination of individuals organized under the laws of, or having its principal place of business in, a foreign country;

(j)⁷ The term "political propaganda" includes any oral, visual, graphic, written, pictorial, or other communication or expression by any person (1) which is reasonably adapted to, or which the person disseminating the same believes will, or which he intends to, prevail upon, indoctrinate, convert, induce, or in any other way influence a recipient or any section of the public within the United States with reference to the political or public interests, policies, or relations of a government of a foreign country or a foreign political party or with reference to the foreign policies of the United States or promote in the United States racial, religious, or social dissensions, or (2) which advocates, advises, instigates, or promotes any racial, social, political, or religious disorder, civil riot, or other conflict involving the use of force or violence in any other American republic or the overthrow of any government or political subdivision of any other American republic by any means involving the use of force or violence. As used in this section 1(j) the term "disseminating" includes transmitting or causing to be transmitted in the United States mails or by any means or instrumentality of interstate or foreign commerce or offering or causing to be offered in the United States mails;

(k)⁷ The term "registration statement" means the registration statement required to be filed with the Attorney General under section 2(a)

hereof, and any supplements thereto required to be filed under section 2(b) hereof, and includes all documents and papers required to be filed therewith or amendatory thereof or supplemental thereto, whether attached thereto or incorporated therein by reference;

(l) ⁷ The term "American republic" includes any of the States which were signatory to the Final Act of the Second Meeting of the Ministers of Foreign Affairs of the American Republics at Habana, Cuba, July 30, 1940; ⁸

(m) ⁷ The term "United States," when used in a geographical sense includes the several States, the District of Columbia, the Territories, the Canal Zone, the insular possessions, and all other places now or hereafter subject to the civil or military jurisdiction of the United States; ⁹

(n) ⁷ The term "prints" means newspapers and periodicals, books, pamphlets, sheet music, visiting cards, address cards, printing proofs, engravings, photographs, pictures, drawings, plans, maps, patterns to be cut out, catalogs, prospectuses, advertisements, and printed, engraved, lithographed, or autographed notices of various kinds, and, in general, all impressions or reproductions obtained on paper or other material assimilable to paper, on parchment or on cardboard, by means of printing, engraving, lithography, autography, or any other easily recognizable mechanical process, with the exception of the copying press, stamps with movable or immovable type, and the typewriter.

(o) ¹⁰ The term "political activities" means the dissemination of political propaganda and any other activity which the person engaging therein believes will, or which he intends to, prevail upon, indoctrinate, convert, induce, persuade, or in any other way influence any agency or official of the Government of the United States or any section of the public within the United States with reference to formulating, adopting, or changing the domestic or foreign policies of the United States or with reference to the political or public interests, policies, or relations of a government of a foreign country or a foreign political party;

(p) ¹⁰ The term "political consultant" means any person who engages in informing or advising any other person with reference to the domestic or foreign policies of the United States or the political or public interest, policies, or relations of a foreign country or of a foreign political party;

(q) ¹⁰ For the purpose of section (3) (d) hereof, activities in furtherance of the bona fide commercial, industrial or financial interests of a domestic person engaged in substantial commercial, industrial or financial operations in the United States shall not be deemed to serve predominantly a foreign interest because such activities also benefit the interests of a foreign person engaged in bona fide trade or commerce which is owned or controlled by, or which owns or controls, such domestic person: *Provided*, That (i) such foreign person is not, and

⁸ The Act of Habana, E.A.S. Doc. No. 199 is found in 54 Stat. 2491. The 21 signatories thereto were: Honduras, Haiti, Costa Rica, Mexico, Argentina, Uruguay, Ecuador, Bolivia, Chile, Brazil, Cuba, Paraguay, Panama, Colombia, Venezuela, El Salvador, Dominican Republic, Peru, Nicaragua, Guatemala, United States of America.

⁹ Pursuant to Proc. No. 2695, 11 F.R. 7517, 60 Stat. 1352, granting independence to the Philippines, words "including the Philippine Islands" were deleted from the definition of the United States.

¹⁰ The Act of July 4, 1966, 80 Stat. 244, added secs. (o) through (q).

such activities are not directly or indirectly supervised, directed, controlled, financed or subsidized in whole or in substantial part by, a government of a foreign country or a foreign political party, (ii) the identity of such foreign person is disclosed to the agency or official of the United States with whom such activities are conducted, and (iii) whenever such foreign person owns or controls such domestic person, such activities are substantially in furtherance of the bona fide commercial, industrial or financial interests of such domestic person.

Sec. 2. Registration.—(a)¹¹ No person shall act as an agent of a foreign principal unless he has filed with the Attorney General¹² a true and complete registration statement and supplements thereto as required by this section 2(a) and section 2(b) hereof or unless he is exempt from registration under the provisions of this Act. Except as hereinafter provided, every person who becomes an agent of a foreign principal shall, within ten days thereafter, file with the Attorney General, in duplicate, a registration statement, under oath on a form prescribed by the Attorney General. The obligation of an agent of a foreign principal to file a registration statement shall, after the tenth day of his becoming such agent, continue from day to day, and termination of such status shall not relieve such agent from his obligation to file a registration statement for the period during which he was an agent of a foreign principal. The registration statement shall include the following which shall be regarded as material for the purposes of this Act:

(1)¹³ Registrant's name, principal business address, and all other business addresses in the United States or elsewhere, and all residence addresses, if any;

(2) Status of the registrant; if an individual, nationality; if a partnership, name, residence addresses, and nationality of each partner and a true and complete copy of its articles of copartnership; if an association, corporation, organization, or any other combination of individuals, the name, residence addresses, and nationality of each director and officer and of each person performing the functions of a director or officer and a true and complete copy of its charter, articles of incorporation, association, constitution, and bylaws, and amendments thereto; a copy of every other instrument or document and a statement of the terms and conditions of every oral agreement relating to its organization, powers, and purposes; and a statement of its ownership and control;

(3) A comprehensive statement of the nature of registrant's business; a complete list of registrant's employees and a statement of the nature of the work of each; unless, and to the extent, this requirement is waived in writing by the Attorney General;

¹¹ This section was reworded by the Act of July 4, 1966 (80 Stat. 244 at 245). It was previously amended and restated by Public Law 81-642 (64 Stat. 400).

¹² Pursuant to sec. 2 of the Act of April 29, 1942 (56 Stat. 251), and by virtue of Executive Order 9176, effective June 1, 1942, registration functions under this Act were transferred from the Secretary of State to the Attorney General. Under 18 U.S.C. 951 it is a criminal offense for one, other than a diplomatic or consular officer, to act as a foreign agent without prior notification to the Secretary of State.

¹³ Sections 1-11 of subsection (a) were added by the Act of April 29, 1942 (56 Stat. 249), in order to provide detailed appraisal as to the comprehensive information required in the registration statement. The latter Act also extended the registration provisions so as to require disclosure of all activities of the registrant, that "as agent" and those "for himself".

the name and address of every foreign principal for whom the registrant is acting, assuming or purporting to act or has agreed to act; the character of the business or other activities of every such foreign principal, and, if any such foreign principal be other than a natural person, a statement of the ownership and control of each; and the extent, if any, to which each such foreign principal is supervised, directed, owned, controlled, financed, or subsidized, in whole or in part, by any government of a foreign country or foreign political party, or by any other foreign principal;

(4) ¹³ Copies of each written agreement, and the terms and conditions of each oral agreement, including all modifications of such agreements, or, where no contract exists, a full statement of all the circumstances, by reason of which the registrant is an agent of a foreign principal; a comprehensive statement of the nature and method of performance of each such contract, and of the existing and proposed activity or activities engaged in or to be engaged in by the registrant as agent of a foreign principal for each such foreign principal, including a detailed statement of any such activity which is a political activity;

(5) The nature and amount of contributions, income, money, or thing of value, if any, that the registrant has received within the preceding sixty days from each such foreign principal, either as compensation or for disbursement or otherwise, and the form and time of each such payment and from whom received;

(6) ¹⁴ A detailed statement of every activity which the registrant is performing or is assuming or purporting or has agreed to perform for himself or any other person other than a foreign principal and which requires his registration hereunder, including a detailed statement of any such activity which is a political activity;

(7) ¹⁵ The name, business, and residence addresses, and if an individual, the nationality, of any person other than a foreign principal for whom the registrant is acting, assuming or purporting to act or has agreed to act under such circumstances as require his registration hereunder; the extent to which each such person is supervised, directed, owned, controlled, financed, or subsidized, in whole or in part, by any government of a foreign country or foreign political party or by any other foreign principal; and the nature and amount of contributions, income, money, or thing of value, if any, that the registrant has received during the preceding sixty days from each such person in connection with any of the activities referred to in clause (6) of this subsection, either as compensation or for disbursement or otherwise, and the form and time of each such payment and from whom received;

(8) ¹⁵ A detailed statement of the money and other things of value spent or disposed of by the registrant during the preceding sixty days in furtherance of or in connection with activities which require his registration hereunder and which have been undertaken by him either as a agent of a foreign principal or for him-

¹⁴ The words "including a detailed statement of any such activity which is a political activity" were added by Act of July 4, 1966, 80 Stat. 244, 245.

¹⁵ This subsection was amended by Act of July 4, 1966, 80 Stat. 244, 245-246.

self or any other person or in connection with any activities relating to his becoming an agent of such principal, and a detailed statement of any contributions of money or other things of value made by him during the preceding sixty days (other than contributions the making of which is prohibited under the terms of section 613 of Title 18, United States Code) in connection with an election to any political office or in connection with any primary election, convention, or caucus held to select candidates for any political office;

(9) Copies of each written agreement and the terms and conditions of each oral agreement, including all modifications of such agreements, or, where no contract exists, a full statement of all the circumstances, by reason of which the registrant is performing or assuming or purporting or has agreed to perform for himself or for a foreign principal or for any person other than a foreign principal any activities which require his registration hereunder;

(10) Such other statements, information, or documents pertinent to the purposes of this Act as the Attorney General, having due regard for the national security and the public interests, may from time to time require;

(11) Such further statements and such further copies of documents as are necessary to make the statements made in the registration statement and supplements thereto, and the copies of documents furnished therewith, not misleading.

(b) ¹⁶ Every agent of a foreign principal who has filed a registration statement required by section 2(a) hereof shall, within thirty days after the expiration of each period of six months succeeding such filing, file with the Attorney General a supplement thereto under oath, on a form prescribed by the Attorney General, which shall set forth with respect to such preceding six months' period such facts as the Attorney General, having due regard for the national security and the public interest, may deem necessary to make the information required under section 2 hereof accurate, complete, and current with respect to such period. In connection with the information furnished under clauses (3), (4), and (9) of section 2(a) hereof, the registrant shall give notice to the Attorney General of any changes therein within ten days after such changes occur. If the Attorney General, having due regard for the national security and the public interest, determines that it is necessary to carry out the purposes of this Act, he may, in any particular case, require supplements to the registration statement to be filed at more frequent intervals in respect to all or particular items of information to be furnished.

(c) The registration statement and supplements thereto shall be executed under oath as follows: If the registrant is an individual, by him; if the registrant is a partnership, by the majority of the members thereof; if the registrant is a person other than an individual or a partnership, by a majority of the officers thereof or persons performing the functions of officers or by a majority of the board of directors thereof or persons performing the functions of directors, if any.

¹⁶ As amended and restated by Public Law 77-352 (56 Stat. 248).

(d) ¹⁶ The fact that a registration statement or supplement thereto has been filed shall not necessarily be deemed a full compliance with this Act and the regulations thereunder on the part of the registrant; nor shall it indicate that the Attorney General has in any way passed upon the merits of such registration statement or supplement thereto; nor shall it preclude prosecution, as provided for in this Act, for willful failure to file a registration statement or supplement thereto when due or for a willful false statement of a material fact therein or the willful omission of a material fact required to be stated therein or the willful omission of a material fact or copy of a material document necessary to make the statements made in a registration statement and supplements thereto, and the copies of documents furnished therewith, not misleading.

(e) ¹⁶ If any agent of a foreign principal, required to register under the provisions of this Act, has previously thereto registered with the Attorney General under the provisions of the Act of October 17, 1940 (54 Stat. 1201),¹⁷ the Attorney General, in order to eliminate inappropriate duplication, may permit the incorporation by reference in the registration statement or supplements thereto filed hereunder of any information or documents previously filed by such agent of a foreign principal under the provisions of the Act of October 17, 1940 (54 Stat. 1201).¹⁷

(f) ¹⁸ The Attorney General may, by regulation, provide for the exemption—

(1) from registration, or from the requirement of furnishing any of the information required by this section, of any person who is listed as a partner, officer, director, or employee in the registration statement filed by an agent of a foreign principal under this Act, and

(2) from the requirement of furnishing any of the information required by this section of any agent of a foreign principal, where by reason of the nature of the functions or activities of such person the Attorney General, having due regard for the national security and the public interest, determines that such registration, or the furnishing of such information, as the case may be, is not necessary to carry out the purposes of this Act.

Sec. 3.¹⁹ Exemptions.—The requirements of section 2(a) hereof shall not apply to the following agents of foreign principals:

(a) A duly accredited diplomatic or consular officer of a foreign government who is so recognized by the Department of State, while said officer is engaged exclusively in activities which are recognized by the Department of State as being within the scope of the functions of such officer;

(b) Any official of a foreign government, if such government is recognized by the United States, who is not a public-relations counsel, publicity agent, information-service employee, or a citizen of the United States, whose name and status and the character of whose duties as such official are of public record in the Department of State,

¹⁶ As amended and restated by Public Law 77-352 (56 Stat. 248).

¹⁷ Now covered by 18 U.S.C. 2386, formerly contained in 18 U.S.C. 14-18.

¹⁸ This subsection was added by Act of July 4, 1966 (80 Stat. 244, 246).

¹⁹ Exemption provisions of this Act were amended by the Act of April 29, 1942, 56 Stat. 248, and by the Act of July 4, 1966 (80 Stat. 244, 246).

while said official is engaged exclusively in activities which are recognized by the Department of State as being within the scope of the functions of such official;

(c) Any member of the staff of, or any person employed by, a duly accredited diplomatic or consular officer of a foreign government who is so recognized by the Department of State, other than a public-relations counsel, publicity agent, or information-service employee, whose name and status and the character of whose duties as such member or employee are of public record in the Department of State, while said member or employee is engaged exclusively in the performance of activities which are recognized by the Department of State as being within the scope of the functions of such member or employee;

(d) ²⁰ Any person engaging or agreeing to engage only (1) in private and nonpolitical activities in furtherance of the bona fide trade or commerce of such foreign principal; or (2) in other activities not serving predominantly a foreign interest; or (3) in the soliciting or collecting of funds and contributions within the United States to be used only for medical aid and assistance, or for food and clothing to relieve human suffering, if such solicitation or collection of funds and contributions is in accordance with and subject to the provisions of the Act of November 4, 1939, as amended (54 Stat. 4),²¹ and such rules and regulations as may be prescribed thereunder;

(e) Any person engaging or agreeing to engage only in activities in furtherance of *bona fide* religious, scholastic, academic, or scientific pursuits or of the fine arts;

(f) Any person, or employee of such person, whose foreign principal is a government of a foreign country the defense of which the President deems vital to the defense of the United States while, (1) such person or employee engages only in activities which are in furtherance of the policies, public interest, or national defense both of such government and of the Government of the United States, and are not intended to conflict with any of the domestic or foreign policies of the Government of the United States, (2) each communication or expression by such person or employee which he intends to, or has reason to believe will, be published, disseminated, or circulated among any section of the public, or portion thereof, within the United States, is a part of such activities and is believed by such person to be truthful and accurate and the identity of such person as an agent of such foreign principal is disclosed therein, and (3) such government of a foreign country furnishes to the Secretary of State for transmittal to, and retention for the duration of this Act by, the Attorney General such information as to the identity and activities of such person or employee at such times as the Attorney General may require. Upon notice to the Government of which such person is an agent or to such person or employee, the Attorney General, having due regard for the public interest and national defense, may, with the approval of the Secretary of State, and shall, at the request of the Secretary of State, terminate in whole or in part the exemption herein of any such person or employee;²²

²⁰ This subsection was amended by the Act of Oct. 4, 1961 (75 Stat. 784), and by the Act of July 4, 1966 (80 Stat. 244, 246).

²¹ 22 U.S.C. 441, 444, 445, 447-451, 453-457.

²² By letter dated Sept. 30, 1946, the President withdrew from consideration all countries previously designated as entitled to the exemption provided by sec. 3(f).

(g) ²³ Any person qualified to practice law, insofar as he engages or agrees to engage in the legal representation of a disclosed foreign principal before any court of law or any agency of the Government of the United States: *Provided*, That for the purpose of this subsection legal representation does not include attempts to influence or persuade agency personnel or officials other than in the course of established agency proceedings, whether formal or informal.

Sec. 4.²⁴ **Filing and Labeling of Political Propaganda.**—(a) Every person within the United States who is an agent of a foreign principal and required to register under the provisions of this Act and who transmits or causes to be transmitted in the United States mails or by any means or instrumentality of interstate or foreign commerce any political propaganda for or in the interests of such foreign principal (i) in the form of prints, or (ii) in any other form which is reasonably adapted to being, or which he believes will be, or which he intends to be, disseminated or circulated among two or more persons shall, not later than forty-eight hours after the beginning of the transmittal thereof, file with the Attorney General two copies thereof and a statement, duly signed by or on behalf of such agent, setting forth full information as to the places, times, and extent of such transmittal.

(b) It shall be unlawful for any person within the United States who is an agent of a foreign principal and required to register under the provisions of this Act to transmit or cause to be transmitted in the United States mails or by any means or instrumentality of interstate or foreign commerce any political propaganda for or in the interests of such foreign principal (i) in the form of prints, or (ii) in any other form which is reasonably adapted to being, or which he believes will be, or which he intends to be, disseminated or circulated among two or more persons, unless such political propaganda is conspicuously marked at its beginning with, or prefaced or accompanied by, a true and accurate statement, in the language or languages used in such political propaganda, setting forth the relationship or connection between the person transmitting the political propaganda or causing it to be transmitted and such propaganda; that the person transmitting such political propaganda or causing it to be transmitted is registered under this Act with the Department of Justice, Washington, District of Columbia, as an agent of a foreign principal, together with the name and address of such agent of a foreign principal and of such foreign principal; that, as required by this Act, his registration statement is available for inspection at and copies of such political propaganda are being filed with the Department of Justice; and that registration of agents of foreign principals required by the Act does not indicate approval by the United States Government of the contents of their political propaganda. The Attorney General, having due regard for the national security and the public interest, may by regulation prescribe the language or languages and the manner and form in which such statement shall be made and require the inclusion of such other information contained in the registration statement identi-

²³ This subsection was added by the Act of July 4, 1966 (80 Stat. 244, 246).

²⁴ This provision was added by the Act of April 29, 1942 (56 Stat. 248, 254-5), and as amended by the Act of July 4, 1966 (80 Stat. 244, 246), and provides that two copies of the political propaganda are to be filed with the Attorney General.

fyng such agent of a foreign principal and such political propaganda and its sources as may be appropriate.

(c) ²⁵ The copies of political propaganda required by this Act to be filed with the Attorney General shall be available for public inspection under such regulations as he may prescribe.

(d) For purposes of the Library of Congress, other than for public distribution, the Secretary of the Treasury and the Postmaster General are authorized, upon the request of the Librarian of Congress, to forward to the Library of Congress fifty copies, or as many fewer thereof as are available, of all foreign prints determined to be prohibited entry under the provisions of section 305 of title III of the Act of June 17, 1930 (46 Stat. 688),²⁶ and of all foreign prints excluded from the mails under authority of section 1 of title XII of the Act of June 15, 1917 (40 Stat. 230).²⁷

Notwithstanding the provisions of section 305 of title III of the Act of June 17, 1930 (46 Stat. 688),²⁶ and of section 1 of title XII of the Act of June 15, 1917 (40 Stat. 230),²⁷ the Secretary of the Treasury is authorized to permit the entry and the Postmaster General is authorized to permit the transmittal in the mails of foreign prints imported for governmental purposes by authority or for the use of the United States or for the use of the Library of Congress.

(e) ²⁸ It shall be unlawful for any person within the United States who is an agent of a foreign principal required to register under the provisions of this Act to transmit, convey, or otherwise furnish to any agency or official of the Government (including a Member or committee of either House of Congress) for or in the interests of such foreign principal any political propaganda or to request from any such agency or official for or in the interests of such foreign principal any information or advice with respect to any matter pertaining to the political or public interests, policies or relations of a foreign country or of a political party or pertaining to the foreign or domestic policies of the United States unless the propaganda or the request is prefaced or accompanied by a true and accurate statement to the effect that such person is registered as an agent of such foreign principal under this Act.

(f) ²⁸ Whenever any agent of a foreign principal required to register under this Act appears before any committee of Congress to testify for or in the interests of such foreign principal, he shall, at the time of such appearance, furnish the committee with a copy of his most recent registration statement filed with the Department of Justice as an agent of such foreign principal for inclusion in the records of the committee as part of his testimony.

Sec. 5.²⁹ Books and Record.—Every agent of a foreign principal registered under this Act shall keep and preserve while he is an agent of a foreign principal such books of account and other records with respect to all his activities, the disclosure of which is required under

²⁵ Subsection as amended by the Act of July 4, 1966 (80 Stat. 244 at 247), to provide that the political propaganda filed with the Attorney General shall be available for public inspection.

²⁶ 19 U.S.C. 1305 (1970).

²⁷ 18 U.S.C. 1717 (1970).

²⁸ This subsection was added by the Act of July 4, 1966 (80 Stat. 244 at 247).

²⁹ As amended and restated by the Act of April 29, 1942 (56 Stat. 248), with the phrase in accordance with such business and accounting practices" added by Public Law 89-486 (80 Stat. 244).

the provisions of this Act, in accordance with such business and accounting practices, as the Attorney General having due regard for the national security and the public interest, may by regulation prescribe as necessary or appropriate for the enforcement of the provisions of this Act and shall preserve the same for a period of three years following the termination of such status. Until regulations are in effect under this section every agent of a foreign principal shall keep books of account and shall preserve all written records with respect to his activities. Such books and records shall be open at all reasonable times to the inspection of any official charged with the enforcement of this Act. It shall be unlawful for any person willfully to conceal, destroy, obliterate, mutilate, or falsify, or to attempt to conceal, destroy, obliterate, mutilate, or falsify, or to cause to be concealed, destroyed, obliterated, mutilated, or falsified, any books or records required to be kept under the provisions of this section.

Sec. 6.³⁰ Public Examination of Official Record.—The Attorney General shall retain in permanent form one copy of all registration statements and all statements concerning the distribution of political propaganda furnished under this Act, and the same shall be public records and open to public examination and inspection at such reasonable hours, under such regulations, as the Attorney General may prescribe, and copies of the same shall be furnished to every applicant at such reasonable fee as the Attorney General may prescribe. The Attorney General may withdraw from public examination the registration statement and other statement of any agent of a foreign principal whose activities have ceased to be of a character which requires registration under the provisions of this Act.

(b) The Attorney General shall, promptly upon receipt, transmit one copy of every registration statement filed hereunder and one copy of every amendment or supplement thereto, and one copy of every item of political propaganda filed hereunder to the Secretary of State for such comment and use as the Secretary of State may determine to be appropriate from the point of view of the foreign relations of the United States. Failure of the Attorney General so to transmit such copy shall not be a bar to prosecution under this Act.

(c) The Attorney General is authorized to furnish to departments and agencies in the executive branch and committees of the Congress such information obtained by him in the administration of this Act, including the names of registrants under this Act, copies of registration statements, or parts thereof, copies of political propaganda, or other documents or information filed under this Act, as may be appropriate in the light of the purposes of this Act.

Sec. 7.³¹ Liability of Officers.—Each officer, or person performing the functions of an officer, and each director or person performing the functions of a director, of an agent of a foreign principal which is not an individual shall be under obligation to cause such agent to execute and file a registration statement and supplements thereto as and when such filing is required under sections 2(a) and 2(b) hereof

³⁰ Section (a) as amended and restated by the Act of April 29, 1942 (56 Stat. 248). Sections (b) and (c) added by Public Law 89-486 (80 Stat. 244).

³¹ As amended and restated by the Act of April 29, 1942; further amended and restated by section 2 of Public Law 81-642 (64 Stat. 400).

and shall also be under obligation to cause such agent to comply with all the requirements of sections 4(a), 4(b), and 5 and all other requirements of this Act. Dissolution of any organization acting as an agent of a foreign principal shall not relieve any officer, or person performing the functions of an officer, or any director, or person performing the functions of a director, from complying with the provisions of this section. In case of failure of any such agent of a foreign principal to comply with any of the requirements of this Act, each of its officers, or persons performing the functions of officers, and each of its directors, or persons performing the functions of directors, shall be subject to prosecution therefor.

SEC. 8.³² Enforcement and Penalties.—(a) Any person who—

(1) willfully violates any provisions of this Act or any regulations thereunder, or

(2) in any registration statement or supplement thereto or in any statement under section 4(a) hereof concerning the distribution of political propaganda or in any other documents filed with or furnished to the Attorney General under the provisions of this Act willfully makes a false statement of a material fact or willfully omits any material fact required to be stated therein or willfully omits a material fact or a copy of a material document necessary to make the statements therein and the copies of documents furnished therewith not misleading, shall, upon conviction thereof, be punished by a fine of not more than \$10,000 or by imprisonment for not more than five years, or both, except that in case of a violation of subsection (b), (e), or (f) of Section 4 or of subsection (g) or (h) of this section the punishment shall be a fine of not more than \$5,000 or imprisonment for not more than six months, or both.³³

(b) In any proceeding under this Act in which it is charged that a person is an agent of a foreign principal with respect to a foreign principal outside of the United States, proof of the specific identity of the foreign principal shall be permissible but not necessary.

(c) ³⁴ Any alien who shall be convicted of a violation of, or a conspiracy to violate, any provisions of this Act or any regulation thereunder shall be subject to deportation in the manner provided by sections 241–243 of the Immigration and Nationality Act of 1952 (66 Stat. 204).³⁵

(d) The Postmaster General may declare to be nonmailable any communication or expression falling within clause (2) of section 1(j) hereof in the form of prints or in any other form reasonably adapted to, or reasonably appearing to be intended for, dissemination or circulation among two or more persons, which is offered or caused to be offered for transmittal in the United States mails to any person or persons in any other American republic by any agent of a foreign principal, if the Postmaster General is informed in writing by the Secretary of State that the duly accredited diplomatic representative of such American republic has made written representation to the De-

³² Added by the Act of April 29, 1942 (56 Stat. 248).

³³ Added by section 7(1) of Public Law 89-486 (80 Stat. 248).

³⁴ As amended by section 402(d) of the Immigration and Nationality Act of 1952 (66 Stat. 276).

³⁵ U.S.C. 1251–1253.

partment of State that the admission or circulation of such communication or expression in such American republic is prohibited by the laws thereof and has requested in writing that its transmittal thereto be stopped.

(e)³⁶ Failure to file any such registration statement or supplements thereto as is required by either section 2(a) or section 2(b) shall be considered a continuing offense for as long as such failure exists, notwithstanding any statute of limitation or other statute to the contrary.

(f)³⁷ Whenever in the judgment of the Attorney General any person is engaged in or about to engage in any acts which constitute or will constitute a violation of any provision of this Act, or regulations issued thereunder, or whenever any agent of a foreign principal fails to comply with any of the provisions of this Act or the regulations issued thereunder, or otherwise is in violation of the Act, the Attorney General may make application to the appropriate United States district court for an order enjoining such acts or enjoining such person from continuing to act as an agent of such foreign principal, or for an order requiring compliance with any appropriate provision of the Act or regulation thereunder. The district court shall have jurisdiction and authority to issue a temporary or permanent injunction, restraining order or such other order which it may deem proper. The proceedings shall be made a preferred cause and shall be expedited in every way.

(g)³⁷ If the Attorney General determines that a registration statement does not comply with the requirements of this Act or the regulations issued thereunder, he shall so notify the registrant in writing, specifying in what respects the statement is deficient. It shall be unlawful for any person to act as an agent of a foreign principal at any time ten days or more after receipt of such notification without filing an amended registration statement in full compliance with the requirements of this Act and the regulations issued thereunder.

(h)³⁷ It shall be unlawful for any agent of a foreign principal required to register under this Act to be a party to any contract, agreement, or understanding, either express or implied, with such foreign principal pursuant to which the amount or payment of the compensation, fee, or other remuneration of such agent is contingent in whole or in part upon the success of any political activities carried on by such agent.

Sec. 9.³⁸ Applicability of Act.—This Act shall be applicable in the several States, the District of Columbia, the Territories, the Canal Zone, the insular possessions, and all other places now or hereafter subject to the civil or military jurisdiction of the United States.³⁹

Sec. 10.⁴⁰ Rules and Regulations.—The Attorney General may at any time make, prescribe, amend, and rescind such rules, regulations, and forms as he may deem necessary to carry out the provisions of this Act.

Sec. 11.⁴⁰ Reports to the Congress.—The Attorney General shall, from time to time, make a report to the Congress concerning the

³⁶ Provision added by the Act of September 23, 1950 (64 Stat. 1005).

³⁷ This subject was added by the Act of July 4, 1966 (80 Stat. 244, 248).

³⁸ 22 U.S.C. 619. Section added by amendments of 1942, 56 Stat. 248, 257.

³⁹ Words "Including the Philippine Islands" were deleted pursuant to proclamation granting independence thereto. See note 9, *supra*.

⁴⁰ Added by the Act of April 29, 1942 (56 Stat. 248 at 257-8).

administration of this Act, including the nature, sources, and content of political propaganda disseminated or distributed.

Sec. 12.⁴⁰ Separability of Provisions.—If any provision of this Act, or the application thereof to any person or circumstances, is held invalid, the remainder of the Act, and the application of such provisions to other persons or circumstances, shall not be affected thereby.

Sec. 13.⁴⁰ This Act is in addition to and not in substitution for any other existing statute.

Sec. 14.⁴⁰ Short Title.—This Act may be cited as the “Foreign Agents Registration Act of 1938, as amended.”

b. Contributions by Agents of Foreign Principals and Conflicts of Interest

Partial text of Public Law 89-486 [S. 693], 80 Stat. 248, approved July 4, 1966, as amended by Public Law 93-443 [S. 3044], 88 Stat. 1263 approved, October 15, 1974.

AN ACT To require the registration of certain persons employed by agencies to disseminate propaganda in the United States and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled

* * * * *

SEC. 8. (a) * * * ¹

(b) Chapter 11 of title 18, United States Code, is amended by adding at the end thereof a new section as follows:

“§ 219. Officers and employees acting as agents of foreign principals

“Whoever being an officer or employee of the United States in the executive, legislative, or judicial branch of the Government or in any agency of the United States, including the District of Columbia, is or acts as an agent of a foreign principal required to register under the Foreign Agents Registration Act of 1938, as amended, shall be fined not more than \$10,000 or imprisoned for not more than two years, or both.

“Nothing in this section shall apply to the employment of any agent of a foreign principal as a special Government employee in any case in which the head of the employing agency certifies that such employment is required in the national interest. A copy of any certification under this paragraph shall be forwarded by the head of such agency to the Attorney General who shall cause the same to be filed with the registration statement and other documents filed by such agent, and made available for public inspection in accordance with section 6 of the Foreign Agents Registration Act of 1938, as amended.”

* * * * *

¹ Section 8(a) of this Act added a new section 613 to chapter 20 of title 18, U.S.C., concerning contributions by foreign nationals. However, such section 613 was repealed by Sec. 201(a) of the Federal Election Campaign Act (Public Law 94-283; 90 Stat. 496). Public Law 94-283 further added a new Sec. 324 (2 U.S.C. 441e) to the Federal Election Campaign Act of 1971 which became the new law regarding contributions of foreign nationals. The text of Sec. 324 is as follows:

“CONTRIBUTIONS BY FOREIGN NATIONALS

“SEC. 324. (a) It shall be unlawful for a foreign national directly or through any other person to make any contribution of money or other thing of value, or to promise expressly or impliedly to make any such contribution, in connection with an election to any political office or in connection with any primary election, convention, or caucus held to select candidates for any political office; or for any person to solicit, accept, or receive any such contribution from a foreign national.

“(b) As used in this section, the term ‘foreign national’ means—

“(1) a foreign principal, as such term is defined by section 1(b) of the Foreign Agents Registration Act of 1938 (22 U.S.C. 611(b)), except that the term ‘foreign national’ shall not include any individual who is a citizen of the United States; or

“(2) an individual who is not a citizen of the United States and who is not lawfully admitted for permanent residence, as defined by section 101(a) (20) of the Immigration and Nationality Act (8 U.S.C. 1101(a) (20)).

5. Logan Act—Private Correspondence With Foreign Governments

Partial text of Public Law 80-772 [H.R. 3190], 62 Stat. 744; 18 U.S.C. 953, approved June 25, 1948 (Original legislation approved Jan. 30, 1799, 1 Stat. 613)

AN ACT To revise, codify, and enact into positive law, Title 18 of the United States Code, entitled "Crimes and Criminal Procedure".

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That Title 18 of the United States Code, entitled "Crimes and Criminal Procedure", is hereby revised, codified, and enacted into positive law, and may be cited as "Title 18, U.S.C., § —", as follows:

* * * * *

Any citizen of the United States, wherever he may be, who, without authority of the United States, directly or indirectly commences or carries on any correspondence or intercourse with any foreign government or any officer or agent thereof, with intent to influence the measures or conduct of any foreign government or of any officer or agent thereof, in relation to any disputes or controversies with the United States, or to defeat the measures of the United States, shall be fined not more than \$5,000 or imprisoned not more than three years, or both.

This section shall not abridge the right of a citizen to apply, himself or his agent, to any foreign government or the agents thereof for redress of any injury which he may have sustained from such government or any of its agents or subjects.

* * * * *

6. Neutrality Act of 1939, as amended

Public Resolution 76-54 [H.J. Res. 306], 54 Stat. 4, approved November 4, 1939; as amended by Public Resolution 76-87 [S.J. Res. 279], 54 Stat. 611, approved June 26, 1940; Public Law 76-776 [H.R. 10213], 54 Stat. 866, approved August 27, 1940; Public Law 77-294 [H.J. Res. 237], 55 Stat. 764, approved November 17, 1941; Public Law 77-459 [S.J. Res. 133], 56 Stat. 95, approved February 21, 1942; Presidential Proclamation 2695, 11 F.R. 7517, 60 Stat. 1352, approved July 4, 1946; and by Public Law 83-665 [Mutual Security Act of 1954; H.R. 9678], 68 Stat. 861, approved August 26, 1954.

JOINT RESOLUTION To preserve the neutrality and the peace of the United States and to secure the safety of its citizens and their interests

Whereas the United States, desiring to preserve its neutrality in wars between foreign states and desiring also to avoid involvement therein, voluntarily imposes upon its nationals by domestic legislation the restrictions set out in this joint resolution; and

Whereas by so doing the United States waives none of its own rights or privileges, or those of any of its nationals, under international law, and expressly reserves all the rights and privileges to which it and its nationals are entitled under the law of nations; and

Whereas the United States hereby expressly reserves the right to repeal, change or modify this joint resolution or any other domestic legislation in the interests of the peace, security or welfare of the United States and its people: Therefore be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,

PROCLAMATION OF A STATE OF WAR BETWEEN FOREIGN STATES

SECTION 1.¹ (a) That whenever the President, or the Congress by concurrent resolution, shall find that there exists a state of war between foreign states, and that it is necessary to promote the security or preserve the peace of the United States or to protect the lives of citizens of the United States, the President shall issue a proclamation naming the states involved; and he shall, from time to time, by proclamation, name other states as and when they may become involved in the war.

(b) Whenever the state of war which shall have caused the President to issue any proclamation under the authority of this section shall have ceased to exist with respect to any state named in such proclamation, he shall revoke such proclamation with respect to such state.

SEC. 2.² * * * [Repealed—1941]

SEC. 3.³ * * * [Repealed—1941]

¹ 22 USC 441.

² Sec. 2, which concerned commerce with states engaged in armed conflict, was repealed by Public Law 77-294 (55 Stat. 764).

³ Sec. 3 was repealed by Public Law 77-294 (55 Stat. 764).

AMERICAN RED CROSS

SEC. 4.⁴ (a) The provisions of section 2 (a) ⁵ shall not prohibit the transportation by vessels, unarmed and not under convoy, under charter or other direction and control of the American Red Cross of officers and American Red Cross personnel, medical personnel, and medical supplies, food, and clothing, for the relief of human suffering: *Provided*, That where permission has not been given by the blockading power, no American Red Cross vessel shall enter a port where a blockade by aircraft, surface vessel, or submarine is being attempted through the destruction of vessels, or into a port of any country where such blockade of the whole country is being so attempted: *Provided further*, That such American Red Cross vessel shall be on a mission of mercy only and carrying only Red Cross materials and personnel.

(b) ⁶ The provisions of sections 2 (a) ⁵ and 3 ⁷ shall not prohibit a vessel, in ballast, unarmed, and not under convoy, and transporting refugee children, under sixteen years of age, from war zones, or combat areas, and shall not prohibit such vessel entering into such war zones or combat areas for this purpose, together with such necessary American citizen adult personnel in charge as may be approved by the Secretary of State, subject to the provisions of the immigration laws, if such vessel is proceeding under safe conduct granted by all of the States named in the proclamations issued under the authority of section 1(a), and if such vessel has painted on a large scale prominently, distinctly, and unmistakably on each side thereof and upon the superstructure thereof plainly visible from the air an American flag and a statement to the effect that such vessel is a refugee-child rescue ship of the United States or under United States registry: *Provided*, That every such child so brought into the United States shall, previous to departure from the port of embarkation, have been so sponsored by some responsible American person, natural or corporate, that he will not become a public charge.

TRAVEL ON VESSELS OF BELLIGERENT STATES

SEC. 5.⁸ (a) Whenever the President shall have issued a proclamation under the authority of section 1(a) it shall thereafter be unlawful for any citizen of the United States to travel on any vessel of any state named in such proclamation, except in accordance with such rules and regulations as may be prescribed.

(b) Whenever any proclamation issued under the authority of section 1(a) shall have been revoked with respect to any state the provisions of this section shall thereupon cease to apply with respect to such state, except as to offenses committed prior to such revocation.

SEC. 6.⁹ * * * [Repealed—1941]

⁴ 22 USC 444. The first paragraph of Sec. 4 was amended and restated by Public Resolution 76-87 (54 Stat. 611).

⁵ Sec. 2(a) was repealed. See footnote 2.

⁶ Subsection (b) was added by Public Law 76-776 (54 Stat. 866).

⁷ Sec. 3 was repealed. See footnote 3.

⁸ 22 USC 445.

⁹ Sec. 6, which prohibited the arming of American merchant vessels, was repealed by Public Law 77-294 (55 Stat. 764).

FINANCIAL TRANSACTIONS

SEC. 7.¹⁰ (a) Whenever the President shall have issued a proclamation under the authority of section 1(a), it shall thereafter be unlawful bonds, securities, or other obligations of the government of any state for any person within the United States to purchase, sell, or exchange named in such proclamation, or of any political subdivision of any such state, or of any person acting for or on behalf of the government of any such state, or political subdivision thereof, issued after the date of such proclamation, or to make any loan or extend any credit (other than necessary credits accruing in connection with the transmission of telegraph, cable, wireless and telephone services) to any such government, political subdivision, or person. The provisions of this subsection shall also apply to the sale by any person within the United States to any person in a state named in any such proclamation of any articles or materials listed in a proclamation referred to in or issued under the authority of section 12(i).¹¹

(b) The provisions of this section shall not apply to a renewal or adjustment of such indebtedness as may exist on the date of such proclamation.

(c) Whoever shall knowingly violate any of the provisions of this section or of any regulations issued thereunder shall, upon conviction thereof, be fined not more than \$50,000 or imprisoned for not more than five years, or both. Should the violation be by a corporation, organization, or association, each officer or director thereof participating in the violation shall be liable to the penalty herein prescribed.

(d) Whenever any proclamation issued under the authority of section 1(a) shall have been revoked with respect to any state the provisions of this section shall thereupon cease to apply with respect to such state, except as to offenses committed prior to such revocation.

(e)¹² This section shall not be operative when the United States is at war.

SOLICITATION AND COLLECTION OF FUNDS AND CONTRIBUTIONS

SEC. 8.¹³ (a) Whenever the President shall have issued a proclamation under the authority of section 1(a), it shall thereafter be unlawful for any person within the United States to solicit or receive any contribution for or on behalf of the government of any state named in such proclamation or for or on behalf of any agent or instrumentality of any such state.

(b) Nothing in this section shall be construed to prohibit the solicitation or collection of funds and contributions to be used for medical aid and assistance, or for food and clothing to relieve human suffering, when such solicitation or collection of funds and contributions is made on behalf of and for use by any person or organization which is not acting for or on behalf of any such government, but all such solicitations and collections of funds and contributions shall be

¹⁰ 22 USC 447.

¹¹ Sec. 12(i) was repealed. See footnote 19.

¹² Subsection (e) was added by Public Law 77-459 (56 Stat. 95).

¹³ 22 USC 448.

in accordance with and subject to such rules and regulations as may be prescribed.

(c) Whenever any proclamation issued under the authority of section 1(a) shall have been revoked with respect to any state the provisions of this section shall thereupon cease to apply with respect to such state, except as to offenses committed prior to such revocation.

AMERICAN REPUBLICS

SEC. 9.¹⁴ This joint resolution (except section 12) shall not apply to any American republic engaged in war against a non-American state or states, provided the American republic is not cooperating with a non-American state or states in such war.

RESTRICTIONS ON USE OF AMERICAN PORTS

SEC. 10.¹⁵ (a) Whenever, during any war in which the United States is neutral, the President, or any person thereunto authorized by him, shall have cause to believe that any vessel, domestic or foreign, whether requiring clearance or not, is about to carry out of a port or from the jurisdiction of the United States, fuel, men, arms, ammunition, implements of war, supplies, dispatches or information to any warship tender, or supply ship of a state named in the proclamation issued under the authority of section 1(a), but the evidence is not deemed sufficient to justify forbidding the departure of the vessel as provided for by section 1, title V, chapter 30, of the Act approved June 15, 1917 (40 Stat. 217, 221; U.S.C., 1934 edition, title 18, sec. 31),¹⁶ and if, in the President's judgment, such action will serve to maintain peace between the United States and foreign states or to protect the commercial interests of the United States and its citizens, or to promote the security or neutrality of the United States, he shall have the power, and it shall be his duty, to require the owner, master, or person in command thereof, before departing from a port or from the jurisdiction of the United States, to give a bond to the United States, with sufficient sureties, in such amount as he shall deem proper, conditioned that the vessel will not deliver the men, or any fuel, supplies, dispatches, information, or any part of the cargo to any warship, tender or supply ship of a state named in a proclamation issued under the authority of section 1(a).

(b) If the President, or any person thereunto authorized by him, shall find that a vessel, domestic or foreign, in a port of the United States, has previously departed from a port or from the jurisdiction of the United States during such war and delivered men, fuel, supplies, dispatches, information, or any part of its cargo to a warship, tender, or supply ship of a state named in a proclamation issued under the authority of section 1(a), he may prohibit the departure of such vessel during the duration of the war.

(c) Whenever the President shall have issued a proclamation under section 1(a) he may, while such proclamation is in effect, require the owner, master, or person in command of any vessel, foreign or

¹⁴ 22 USC 449.

¹⁵ 22 USC 550.

¹⁶ 18 USC 31 was repealed by Act June 25, 1948 (63 Stat. 862).

domestic, before departing from the United States, to give a bond to the United States, with sufficient sureties, in such amount as he shall deem proper, conditioned that no alien seaman who arrived on such vessel shall remain in the United States for a longer period than that permitted under the regulations, as amended from time to time, issued pursuant to section 33 of the Immigration Act of February 5, 1917 (U.S.C., title 8, sec. 168).¹⁷ Notwithstanding the provisions of said section 33, the President may issue such regulations with respect to the landing of such seamen as he deems necessary to insure their departure either on such vessel or another vessel at the expense of such owner, master, or person in command.

SUBMARINES AND ARMED MERCHANT VESSELS

SEC. 11.¹⁸ Whenever, during any war in which the United States is neutral, the President shall find that special restrictions placed on the use of the ports and territorial waters of the United States by the submarines or armed merchant vessels of a foreign state will serve to maintain peace between the United States and foreign states, or to protect the commercial interests of the United States and its citizens, or to promote the security of the United States, and shall make proclamation thereof, it shall thereafter be unlawful for any such submarine or armed merchant vessel to enter a port or the territorial waters of the United States or to depart therefrom, except under such conditions and subject to such limitations as the President may prescribe. Whenever, in his judgment, the conditions which have caused him to issue his proclamation have ceased to exist, he shall revoke his proclamation and the provisions of this section shall thereupon cease to apply, except as to offenses committed prior to such revocation.

SEC. 12.¹⁹ * * * [Repealed—1954]

REGULATIONS

SEC. 13.²⁰ The President may, from time to time, promulgate such rules and regulations, not inconsistent with law, as may be necessary and proper to carry out any of the provisions of this joint resolution; and he may exercise any power or authority conferred on him by this joint resolution through such officer or officers, or agency or agencies, as he shall direct.

UNLAWFUL USE OF THE AMERICAN FLAG

SEC. 14.²¹ (a) It shall be unlawful for any vessel belonging to or operating under the jurisdiction of any foreign state to use the flag of the United States thereon, or to make use of any distinctive signs or markings, indicating that the same is an American vessel.

¹⁷ 8 USC 168 was repealed by Act June 27, 1952 (66 Stat. 279).

¹⁸ 22 USC 451.

¹⁹ Sec. 12, which established the National Munitions Control Board, was repealed by Sec. 542(a)(12) of Public Law 83-665 (Mutual Security Act of 1954; 68 Stat. 861).

²⁰ 22 USC 453.

²¹ 22 USC 454.

(b) Any vessel violating the provisions of subsection (a) of this section shall be denied for a period of three months the right to enter the ports or territorial waters of the United States except in cases of force majeure.

GENERAL PENALTY PROVISION

SEC. 15.²² In every case of the violation of any of the provisions of this joint resolution or of any rule or regulation issued pursuant thereto where a specific penalty is not herein provided, such violator or violators, upon conviction, shall be fined not more than \$10,000, or imprisoned not more than two years, or both.

DEFINITIONS

SEC. 16.²³ For the purposes of this joint resolution—

(a) The term “United States”, when used in a geographical sense, includes the several States and Territories, the insular possessions of the United States,²⁴ the Canal Zone, and the District of Columbia.

(b) The term “person” includes a partnership, company, association, or corporation, as well as a natural person.

(c) The term “vessel” means every description of watercraft and aircraft capable of being used as a means of transportation on, under, or over water.

(d) The term “American vessel” means any vessel documented, and any aircraft registered or licensed, under the laws of the United States.

(e) The term “state” shall include nation, government, and country.

(f) The term “citizen” shall include any individual owing allegiance to the United States, a partnership, company, or association composed in whole or in part of citizens of the United States, and any corporation organized and existing under the laws of the United States as defined in subsection (a) of this section.

SEPARABILITY OF PROVISIONS

SEC. 17. If any of the provisions of this joint resolution, or the application thereof to any person or circumstance, is held invalid, the remainder of the joint resolution, and the application of such provision to other persons or circumstances, shall not be affected thereby.

APPROPRIATIONS

SEC. 18.²⁵ There is hereby authorized to be appropriated from time to time, out of any money in the Treasury not otherwise appropriated, such amounts as may be necessary to carry out the provisions and accomplish the purposes of this joint resolution.

²² 22 USC 455.

²³ 22 USC 456.

²⁴ Pursuant to the authority of Presidential Proclamation 2695, July 4, 1946, (11 F.R. 7517, 60 Stat. 1352), the words “(including the Philippine Islands)” were struck out at this point.

²⁵ 22 USC 457.

REPEALS

SEC. 19. The joint resolution of August 31, 1935, as amended, and the joint resolution of January 8, 1937, are hereby repealed; but offenses committed and penalties, forfeitures, or liabilities incurred under either of such joint resolutions prior to the date of enactment of this joint resolution may be prosecuted and punished, and suits and proceedings for violations of either of such joint resolutions or of any rule or regulation issued pursuant thereto may be commenced and prosecuted, in the same manner and with the same effect as if such joint resolutions had not been repealed.

SHORT TITLE

SEC. 20. This joint resolution may be cited as the "Neutrality Act of 1939".

USE OF THE INDEX

The index is organized by subject matter only. Each subject entry also includes the legal citation indicating the document to which it refers. These legal citations were not chosen on the basis of standard legal citation form, but rather for the amount of information they provided and for convenience in producing a computer-printed index. A list of abbreviations used in the legal citation section of the index appears below.

Art--Article
EO--Executive Order
fn--footnote
H. Con. Res.--House Concurrent Resolution
H. Res.--House Resolution
Para.--Paragraph
PL--Public Law
Sec--Section
Stat.--United States Statutes at Large

Page references, wherever possible, indicate the exact page on which mention of the entry is made. Entries of a more general nature that refer to a large section or to an entire document are listed with the page on which the reference begins.

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GLOSSARY OF TERMS USED IN THE INDEX

ADB	Asian Development Bank
ADF	African Development Fund
CIA	Central Intelligence Agency
EEC	European Economic Community
GATT	General Agreement on Tariffs and Trade
IADB	Inter-American Development Bank
IAEA	International Atomic Energy Agency
IBRD	International Bank for Reconstruction and Development
IDA	International Development Association
IFC	International Finance Corporation
IMF	International Monetary Fund
LDC	Less Developed Country
MIA	Missing-In-Action
OAS	Organization of American States
OAU	Organization of African Unity
POW	Prisoners-of-War
SDRs	Special Drawing Rights
SEATO	Southeast Asia Treaty Organization
U.N.	United Nations
WHO	World Health Organization

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